



PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE
OFFICIAL REPORT

PARLIAMENT SECRETARIAT
NEW DELHI

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

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HOUSE OF THE PEOPLE

Saturday, 25th April, 1953

*The House met at a Quarter Past
Eight of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published)

INDIAN INCOME-TAX (AMENDMENT) BILL

The Minister of Finance (Shri C. D. Deshmukh): The first point that I should like to deal with is the general point made that deliberately dilatory tactics are being adopted in bringing forward, or promoting, a comprehensive Income-tax (Amendment) Bill. That point was made by Shri V. P. Nayar and various other people.

Well, I can honestly claim that so far as the state of business in the House permitted, we did make attempts to get that comprehensive Bill through and that, I might point out, included most of the recommendations of the Income-tax Investigation Commission. As you will recall, Sir, that Bill was introduced in June 1951, but it was crowded out of the Provisional Parliament and subsequently it lapsed. Now, this kind of charge is made generally not only in connection with the Income-tax (Amendment) Bill, but also with regard to the Estate Duty Bill and the hon. the Deputy Leader of the Communist Party, I think, twitted me with the prospect of failure to have the Estate Duty Bill gone through all its stages in the present session.

Well, as you are aware, the business of the House is entirely in its own hands and is regulated by it and there has been a Business Advisory

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Committee at work allotting priorities. With regard to this particular Bill—the Estate Duty Bill—most of the parties, barring I might say a few individuals or a few interests, are agreed that it should be carried through, and yet it has not been possible to allot more than five days for it in the current session. I might add, although it is really expatiating on one single point, that so far as I am concerned, I am still prepared to sit till the middle of August if there is any prospect of the Estate Duty Bill being passed, but I cannot do it by myself. I should be very happy to do it, but I must have the support of the rest of the House and I believe that Members of all parties, or representatives of all parties have definitely announced that they will not sit beyond the 15th of May. So, I think, I have cleared myself of the charge of any *mala fides* in regard to the comprehensive Income-tax (Amendment) Bill.

Now, the present Bill itself, which primarily contains non-controversial provisions, has been before the House for eleven months and although the Select Committee reported more than five months ago, it has been possible to take it up only now.

The next point I should like to take up is this very vexed question of the transfer of the Assistant Commissioners of Income-tax from the control of the C. B. R. to that of the Appellate Tribunal. That point was raised by Shri N. C. Chatterjee and Pandit Thakur Das Bhargava, neither of whom I see is here. There was a great deal of legal learning displayed in this matter, but I think myself, with very great respect, that it was misconceived. We really are not dealing with the broad principle of the separation of the executive from the judiciary. So far as the disposal of income-tax appeals is concerned, the real stage is that at which questions of fact as well as of law arising in appeal do go to

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the judicial tribunal, so that it would not be fair to say that this principle has not been adopted. The question then arises why at a lower stage it is not possible, in our opinion, to provide for a fully judicial appellate authority. Now, the reasons are:

Firstly that the I. T. Os. are administrative revenue officers and what are called appeals to the Appellate Assistant Commissioners are in effect administrative reviews. Now, I would like to quote some authority for this statement of mine. In the first place, I am sorry the hon. Member is not there and these tomes would be wasted. There is support for this doctrine in the judgment of Sir Cecil Walsh and Iqbal Ahmed in *re. Baghat Halwai* (I. T. C. Page 51), which, with your permission, I shall quote. It says:

"They are judicial proceedings in the colloquial sense"—

I am reading from the judgment—

"because the Income-tax authorities have to make up their minds judicially with fairness to the public and to the assessee, between whom they stand, after taking all the facts or such facts as they can into account, but they are not judicial proceedings in the strictly scientific sense of the term, so as to raise questions in appeal to some higher tribunal as to whether the gentleman making the assessment has decided against the weight of evidence, or decided a fact of which there is no evidence, or has disregarded evidence which he ought to have taken into account. To open the door for one moment to such a contention would turn this court into a court of appeal of fact with regard to every assessment in which the assessee was dissatisfied with the decision."

Then they go on to say:

"We should be inundated or the Commissioner would be inundated with applications to state cases."

Later on they say:

"No question of law arises and, therefore, we ought not to issue notice."

That is one authority.

Then, there are also some observations by Lord Hanworth. Master of Rolls in the *Commissioners of Inland Revenue v. Sneath* (as Committee for D.G.M.) (T. C. XVII, page 161.).

He goes on to quote a previous observation of Lord Herschell and says:

"The decision related, it is true, to the question of the refusal of justices to renew a licence. He (Lord Herschell) says: 'There is, in truth, no *lis*, no controversy *inter partes*, and no decision in favour of one of them and against the other, unless indeed the entire public are regarded as the other party.'"

Here, the State represents the so-called other party which is accused of being both the judge and the prosecutor at the same time. But the distinction is that, where the State is concerned, it has necessarily to be represented by some administrative organisation. It cannot be said, however, that it is a dispute between two parties. I am sorry that I interrupted the quotation to make these comments of mine, but I shall resume the quotation, and here follows a very important observation:—

"There is no interest in the Surveyor except to bring before the court all facts relevant to the assessment. The decision does not inure in his favour, unless he is to be treated as representing the tax-payers at large exclusive of the one upon whom the assessment in question is made."

That, I consider, is a very sound principle and indeed an essential principle.

I should like to point out that the practice in most other countries, as we would expect, is the same, because it flows from the same principle, and the first appeal is to the revenue authorities direct. I have got here a long list of authorities to whom the appeals are made, but I do not wish to take the time of the House by reading out the whole of the statement. It is a long list and consists of sixteen countries including Australia, Cuba, Canada, France, Luxemburg, Pakistan, South Africa, Turkey etc., and the authorities to whom the first appeal goes are as follows: Australia—the Commissioner of Taxation; Cuba—the Ministry of Finance, Canada—the Ministry of National Revenue; France—Fiscal Administration; Israel—the Minister of Finance; Pakistan—I will not mention, because they model their law on the old Indian law; and South Africa—I will not mention. The point is, no matter where you look, the practice is the same. There may be one or two exceptions. Sometimes, they

re appointed by the Minister of Finance. Sometimes, there are lists of persons approved by Parliament—laymen with knowledge of legal conditions as in the U. K. The point is that you look at the different countries, there would hardly be any example in which the first appeal lies to the judicial officers as such.

This practice is supported by well-known authorities in public finance, and I would like to read from a well-known book on public finance by Arley Leist Lutz. He has studied the theory of taxation much more than people in most other countries. Here is what it says:

"Two methods have been followed in establishing a review procedure. One is administrative or quasi-judicial. The other is judicial, i.e. the appeal may go to some higher administrative authority as the State Tax Commission, or it may go to the courts. In hearing appeals, the Commission is functioning in a quasi-judicial, i.e. capacity, but it is not limited to the methods customarily observed by the courts in seeking the facts."

And that is very important.

"If it is a question of property values, for example,..."

I may say that this is a point which we discussed when we were discussing the Estate Duty Bill—

"... the Commission may go to the locality involved, make personal examination of the facts, draw upon the services of other assessors or upon its accumulation of statistical data, and thus arrive at a decision. In general, administrative review of the factual issues of taxation is preferable to judicial review, although the strict legal issues must go to the courts for determination..."

—as they do under our law—

"...The tax administrator is engaged continuously with the concrete aspects of taxation and is better qualified to ascertain the facts than are the judges who deal with such matters only in cases brought before them. Further, the administrative review can be conducted in a less formal and therefore less expensive way than the judicial review."

And this question of expense has arising on the total relief granted, which was miscalculated by someone. Whether it is Rs. 200, or Rs. 750 as we

claim, per person, the cost of it would probably increase if people have to go through a more elaborate judicial process. To continue the quotation:

"Individuals are not permitted to state their own case before a court but must engage attorneys authorised to practise law."

I might say that in our income-tax law administration, we allow lawyers to appear freely where the clients require them. To resume the quotation:

"Enlightened Tax Commissions..."

This is very important, because we claim to be in this category—

"Enlightened Tax Commissions encourage informal appeal procedure..."

We not only encourage, but we fight for it—

".....and permit property owners to appear in person, thereby lessening the expense of review proceedings. Under any review procedure, the basic requirement of 'due process', namely, notice to the parties interested and opportunity for hearing, must be observed."

I think that I have made out a very clear case as to why the Assistant Appellate Commissioners—apart from the administrative difficulty which I have not mentioned—must continue to be under the Commission.

In this connection, I would like to commend the point that Shri T. N. Singh made. It is a very valid point, namely, that the next demand would be to take the initial assessment itself, if we were to yield to this, to the court with the I. T. O. as one party and the assessee as the other. In that case, you can imagine how much delay would take place in completing assessments. As I pointed out, the question of fact can be taken in appeal to an independent body in the shape of the appellate tribunal and the question of law can go right up to the Supreme Court. I would also like to give some statistics. They show that, of the appeals disposed of by the Appellate Assistant Commissioners, only about 13 per cent. go higher up to the tribunal, which means that 87 per cent. of the appellants have no grievance against the Appellate Assistant Commissioner's decision. Of the 13 per cent. that went to the tribunal, only about one-fifths were successful; two-fifths were unsuccessful and two-fifths were partially successful.

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ful. In 1951-52, the amount of tax and penalty remitted by the Appellate Assistant Commissioners amounted to Rs. 4,78,00,000. So, we do not understand how a reduction of only Rs. 200 per assessee has been computed. The reduction of this amount was in 33,450 appeals, which means a reduction of over Rs. 1,400 per assessee, and I am sorry that as usual I underestimated the facts. On the basis of the total number of appeals filed, the average would be Rs. 700 and that is the figure which I had in mind. The average amount of assessment was taken by me as only Rs. 3,500. In the light of the figures which I have now quoted, I claim that the reduction is very appreciable.

Now, as has been pointed out in the extract from Lord Hanworth, if Appellate Assistant Commissioners are not subordinate to the Department, then the practice regarding the admission of evidence and the burden of proof will necessarily be more rigid. Lastly, there is this administrative difficulty, viz. in the present shortage of staff, a sufficient number of officers is not available for manning both the Income-tax Assistant Commissioners and the Appellate Assistant Commissioners as rigidly separate cadres. The answer to that argument, of course, is that, "If you do not do it now, please admit it in principle and then you can carry it out in three years' time or four years' time, as the staff situation permits". But I do not wish to give that kind of answer, because I am quite convinced that in principle the practice I am urging is right in the interests of the assessee himself.

Having thus disposed of the first of the few important points that were raised in the debate, I turn next to the question of the restriction of exemption regarding income from business carried on by charitable institutions. A large number of hon. Members were interested and weighty observations were made again by Shri N. C. Chatterjee, Shri Avinashilingam Chettiar and various other speakers. In this matter, according to the amendment proposed by one hon. Member, incomes derived from business of trusts which are wholly for religious or charitable purposes would be exempt from tax, even though such businesses do not satisfy the conditions laid down in section 4 (3) (ia). These conditions restrict the scope of the business whose income is entitled to exemption. If we were to accept this kind of amendment, then business run by religious or charitable trusts

will have an unfair advantage over those run by the ordinary business people. Apart from this consideration, I think it necessary to go into the reasons for inserting this provision 4(3)(ia) a little more fully.

'Section 4 (3)(i) of the Income-tax Act, conferring exemption on income from property held in trust or other legal obligation for religious or charitable purposes, has been a part of the statute for a long time. The Department construed the word 'property' in a wider sense to include securities and business. The Income-tax Enquiry Report of 1936 made the following recommendation, based on the position under the United Kingdom law:

"If however, any limitation is desired, we suggest (i) that private religious trusts which do not enure to the benefit of the public should not be exempt, and (ii) that business carried on by the trustees of a religious or charitable trust should be exempt only when the business activities are in themselves the primary purpose of the charity, or when the work in connection with the business is mainly carried on by the beneficiaries. (See section 24, United Kingdom Finance Act, 1927.)"

Government accepted the recommendation and, accordingly, clause (ia) was inserted in section 4(3), the idea being that section 4(3)(i) would cover property while section 4(3)(ia) would cover business.

In the Charitable Gadodia Swadeshi Stores case the tribunal decided the question in favour of the Department and held that the juxtaposition of the new clause (ia) to the existing clause (i) had the effect of excluding business from the word 'property' used in clause (i). The Lahore High Court, however, took another view and observed as follows:

"Clause (ia) as it stands cannot in any way derogate or subtract anything from clause (i). It rather adds to the list of exceptions and provides immunity for a certain kind of business which in the view of the Legislature had not already been provided for. A new clause inserted by the Legislature cannot be presumed to be inconsistent with or repugnant to a foregoing clause in the same sub-section unless it is so expressly provided. Viewed in its proper perspective, therefore, clause (ia) can be taken to apply only to such business as is carried on on behalf

of religious or charitable institutions which were not held under trust and not to such business as was itself held under trust or was conducted by or on behalf of such charitable or religious institutions as were held under trust. If it was intended to narrow down the scope of clause (i) so as to withdraw the exemption enjoyed by a business held in trust or conducted by or on behalf of a religious or charitable trust, the new clause should have been added as a proviso to the old clause."

As the original intention of the amendment was not carried out according to this judgment, the Income-tax Investigation Commission, in its recommendation No. 54, suggested that clause (ia) should be made as a proviso to section 4(3)(i). And this is what has been done in the Bill as it has emerged from the Select Committee.

So my point is that this stems from the recommendations of the Committee made as long ago as 1936. What is now being proposed is, therefore, nothing new. But it merely clarifies what had always been intended. And we have always held that if we find that our drafting is proved by a judicial decision not to have carried out the original intention then it is permissible for us to try and draft it again so as to be able to carry out the original intention.

As regards charitable purposes outside India, in the present amendment of clause 4(3)(i) another condition has been specifically added, namely, that the charitable purpose must relate to something done within India. This also is based on recommendation No. 52 of the Income-tax Investigation Commission's Report, having regard to certain observations made by Lord Hobhouse in *Webb versus England* (1898 A. C. 758).

It is possible to say that such condition is implicit that is the point—in the exemption given. But the Department had not adopted a restricted construction in the past during the previous regime. These are the observations of Lord Hobhouse. These are very important points. I have a small quotation again:

"It can hardly be that the Parliament of Victoria has such great regard for social and industrial combinations and efforts all over the world that it should offer to the Jesuits' Society in Rome, to the Amalgamated Engineers and the Athenaeum Club in England,

and to the Witwatersrand Company in Africa, exemption from income-tax if they choose to invest their funds in Victorian land, or in mortgages upon it, or, it would seem, in the purchase of Government stock. It would require a much clearer expression than can be found in the general words of these heads of exemption to induce their Lordships to infer any such intentions on the part of the Victorian Legislature. It seems to them much more reasonable to suppose that in framing heads (c), (d) and (h)" —we do not know what these heads are—the Legislature was speaking of bodies acting in or for Victoria and the same reason applies to head (e)".

Now, the condition which is incorporated, therefore, makes explicit the position which should be regarded to have been implicitly there. It may be noted that in section 15B the exemption applies to donations made to charitable institutions established in India. That is a parallel provision which the House has approved.

Then I pass on the question of application to purposes other than charity. The other provision, which withdraws exemption and makes income chargeable to tax if it is applied for other purposes or ceases to be accumulated or set apart for charitable purposes, is, in our opinion, necessary to offset the exemption wrongly given in earlier years. This is apart from any consequences which may follow under any other law for breach of trust. So, that is the second important point that was raised.

Now, the third one was in regard to the interest payable by Government on tax paid under section 18A. This, again, was referred to by Shri N. C. Chatterjee, Pandit Thakur Das Bhargava and others. Here, section 18A was inserted in 1944 as complementary to section 18 which deals with deduction of tax at source on certain types of income, for example, salaries, interest on securities and other interests which are *prima facie* income at the time of payment. The opening words of section 18A are.

"In the case of income in respect of which provision is not made for deduction of Income-tax at the time of payment."

Now it is clear that in essence the scheme of section 18A is complementary to that of section 18 and the object is to secure the payment of tax

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on current income on the 'pay as you earn' or 'as you go' basis, though incidentally, the scheme also helped to counter inflation caused by the large war profits. As in the first year of the inception of the scheme, assessee had to pay two taxes, one on the current income and another on the income of the previous year, an inducement of two per cent. simple interest was given which might have been justified then, it is no longer justified now. Now really, the scheme is in no way different from that in vogue under the Act of 1918. For a proper appreciation of the scheme, it may be useful to set out briefly the change in taxation structure made in the Income-tax Act, 1922. Under the Act of 1918, the tax was on the basis of income of the current year but the provisional measure was the income of the last year. Thus, in the first year of assessment of a business, it had to pay two taxes, one a final tax on the basis of the income of the previous year and another a provisional tax on the income of the current accounting year, to be adjusted in the coming year when the income of the current accounting period was determined. This basis was changed in the Act of 1922 and the tax is now charged on the income of the previous year as is well-known though, of course, it forms the revenue of the financial year in which it is charged. The adjustment system of the 1918 Act was continued for the first year 1922-23 when the Act of 1922 came into force and was discontinued subsequently except for a final adjustment to be made. I refer here to section 25(3) and (4) when a business assessed under the Act of 1918 is discontinued or succeeded by another person. Thus, the scheme of section 18A is not materially different from that in vogue in 1918 and the main object is to safeguard the loss of revenue which may accrue on account of the time-lag between the date of the earning of the income and the date of the assessment.

Let us consider what the basis of assessment in the United Kingdom is. The basis of assessment in the United Kingdom is the current year's income. Section 1 of the U. K. Finance Act lays down that "where any Act enacts that income-tax shall be charged for any year at any rates then, subject to the provisions of this Act, the tax at those rates shall be charged for that year in respect of all property, etc."

This completes the quotation. Even any business has practically to pay two taxes, one for the previous year and the other for the current

year, the latter being finally adjusted on the discontinuance of the business.

Now having regard to this background and the tax structure, the question is whether the tax paid under section 18A is an advance tax at all. Those who call it an advance tax base their claim on section 3 of the Income-tax Act which lays down that:

"...where any Central Act enacts that income-tax shall be charged for any year at any rate or rates, tax at that rate or those rates shall be charged for that year in respect of the total income of the previous year."

The tax is thus on the income of the previous year and is chargeable in the next following financial year. On this basis it is urged that this is an advance tax and this claim is reinforced by the recommendations, Nos. 57 to 59, of the Investigation Commission.

Now it may be stated that the tax under section 18A though loosely called advance tax, is not 'advance' in the sense that it is paid before it is actually due. That is the sense in which this word is used because the tax is due under section 12A but advance tax in the sense that it is provisional and is liable to adjustment on regular assessment. That is the important distinction. Now, therefore, viewed in this light, the deductions at source under section 18 and under section 18A are similar because both are made at the current rates of tax and both are adjustable on regular assessment with this difference only that the tax in respect of section 18A income is to be adjusted with reference to the rates applicable to the relevant financial year and get the benefit or the disadvantage of the decrease or increase in rates while the tax on salaries, etc., is adjusted at the rates in force in the year of deduction.

Finally, this question of whether higher rates of interest should be paid can only arise if on the adjustment, the assessee has made a larger declaration than would events prove. Now, the choice is entirely before him. He might, if he likes, pay a smaller sum than what is the event is found to be assessable on him. Therefore, this is a provision to meet a very rare class of case indeed and viewed in the light of that, I do not think that there is any case for increasing this rate of interest.

Now, I dealt with the three important points that were raised. I

shall deal with many of the other points that were made as they were raised.

Before I close the last point, I might say that the interest paid amounts to Rs. 1½ crores to assesseees whose income is more than Rs. 6,000 and there is no justification for this gift to richer classes.

Now, something was said in regard to the continuance of evasion of taxes by big assesseees. This point was made by Shri Chatterjee, Shri Boga-wat and others. Now, the first point is that the Income-tax Investigation Commission is still functioning and has already reported in 860 cases involving incomes of over Rs. 40 crores and a tax of about Rs. 20 crores of which I think about Rs. nine crores have already been collected and the total expenditure on the Income-tax Investigation Commission would be, I think, less than Rs. 50 lakhs so far.

Secondly, there is a separate Directorate of Investigation attached to the C. B. R. since October, 1952 to deal adequately with big cases of evasion and complaints of corruption against officers. I am inclined to think that this system is gradually establishing itself and increasing its usefulness to the public although it is too early to take a view since it was only established in 1952.

Thirdly, what it boils down to is the really large question of staff. We have been for many years short of staff and that shortage came very much to prominence during the war years when there was a sudden expansion of income. Also there is a limit within which we can recruit and train men. All officers are trained in advance accounts, including—I may say in reply to some hon. Member who wanted Income-tax Officers to be familiar with accounts in the various languages and with dialects—Marwari and local languages. To enable them to scrutinise accounts properly, they have got to pass an examination in which they must show their familiarity and their ability to cope with all these complicated accounts. The amending Bill of 1951 which lapsed contained provisions for investigations on the spot, power to search and seize books and documents. Now, if the charge that we are deliberately delaying that Bill is disproved, then I think I can claim as proof of our desire still to tighten up the administration. This provision, being highly controversial, was not included in the present Bill in order to save time. The old Bill also contained a provision restricting the re-

presentation of assesseees by un-qualified persons, and in particular by retired persons of the department. I think this question was raised by Mr. T. N. Singh why they were allowed to practise. If they are otherwise qualified, we can only place a restriction for a limited period but not for all time, on such men. That is to say, we can say that for the first two or three years after retirement they shall not practise. It seems very hard to say that for the rest of their life they shall not be able to earn their livelihood in the only way that is known to them.

There was another question which exercised hon. Members, and that was tax clearance certificate to be obtained by persons leaving India, and the ancillary questions of the responsibility of the carriers and the inconvenience to travellers were also raised. This was raised by Shri Avinashilingam Chettiar, Shri Raghavachari and others. The provisions are practically similar to those in some other countries such as Pakistan, Australia, etc. Carriers are therefore not likely to be unfamiliar with them. When they go to the other end, they have, any way, to comply with these requirements. Some amount of inconvenience, I admit, is inevitable. But, as I said, the two parties being the assesseees and the State, I think the House which represents the people and the State will admit that this is necessary in the interests of revenue which must be the primary consideration. We are not a court of law here. Already, more than ten crores of rupees, outstanding against people who have left for another country or other countries, are there, and there are no assets available in India to cover those outstanding taxes due from them. Therefore, sufficient damage has already been done by the absence of any legal provisions to stop this. Further, we are prepared to issue rules which will give the maximum exemption possible and to make administrative arrangements to ensure the expeditious issue of tax clearance certificates or the 'No objection' certificates. So, I think, with this assurance and in the light of this explanation, hon. Members will see their way to accept this particular provision.

Then, there was some question about concessions to life insurance companies. I think it was taken up by Shri V. P. Nayar, who said that much of this went to companies and not the policy holders, and he wanted to be enlightened. It is well known that you can enlighten only those who wish to be enlightened. He probably

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knows—he will excuse me if I am wrong—there is a proverb:

Orangadavine oikapitaku prayasamane

Shri V. P. Nayar (Chirayilukil): What is the English translation of that? We are not able to understand Telugu.

Shri C. D. Deshmukh: This is supposed to be Malayalam.

Shri V. P. Nayar: What? Malayalam is not read in this way.

When you read, I thought it was Telugu!

Shri C. D. Deshmukh: If he wants in Telugu, it is:

Nidrapotunnavadini leputamu sula-bhamu; melukonna wadini leputam kashnamu

Shri V. P. Nayar: What does it mean?

Shri C. D. Deshmukh: It means in Bengali:

Jege ghumale take jugano jaena

Some Hon. Members: What about Hindi, Marathi?

Shri C. D. Deshmukh: Almost every language and every people seem to have this kind of experience.

Coming to the substance of the matter, in the first place, the concessions to life insurance companies are based on the recommendation of the Income-tax Investigation Commission itself, paras. 42 to 50. They were modified in consultation with the Controller of Insurance. The Income-tax Investigation Commission found that owing to the raising of the scales of salaries in recent years, management expenses had increased. The rise in expenditure is carefully watched by the Controller of Insurance who reviews the situation periodically.

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The increase in the allowance of bonus reserved for policy holders is based on the principle that this represents merely the return of extra premia charged to the participating policy holders, which is not actually income of the company. That is the important point. We cannot allow the whole of the bonus reserved for policy holders as the balance of 20 per cent. represents the yield on investment and is not a return of the extra premia charged. In the United Kingdom, the

whole bonus reserved for policy holders is allowed. But, there, the rebate in Income-tax allowed on insurance premia is at a lower rate. The mere fact that insurance companies are controlled by big assesseees is not therefore a good reason why they should be denied this relief which is due to them.

There was another point raised by Mr. Altekar that mutual insurance companies should be treated like co-operative societies. There is no difference between life insurance business carried on by a proprietary concern and a mutual insurance company except that while the former are required to reserve 90 per cent. of the surplus for bonus to policy holders and the latter reserve the entire surplus for bonus. The mutual insurance companies also pay a lower tax than the proprietary concerns, inasmuch as they get a reduction of two annas in the rupee, in super tax—I think that was provided by us two years ago—while the proprietary concerns get a reduction of 1½ annas in the rupee. Also, while out of a surplus of 100, the proprietary insurance companies will get a reduction of 80 per cent. of 90 for bonus reserved for policy holders, that is 72, the mutual companies get 80 per cent. of 100; or 80. Thus this taxable income is eight per cent. less than that of a proprietary concern, which is already an appreciable advantage. Therefore, there is no room for further concessions. In fact, it may be recalled by you, Sir, that the proprietary concerns, at that time, protested against what was regarded as preferential treatment accorded to mutual companies. They considered that these concessions to the mutual companies are not justified.

Then, there was a suggestion that the non-scheduled banks should be allowed tax free reserves up to the extent of the paid up capital and that they should be exempted from corporation tax when the capital is less than 25 lakhs. I am afraid that is a suggestion which cannot possibly be accepted. Tax free reserves cannot be allowed to non-scheduled banks as it is not permissible to make such a discrimination in favour of concerns which, apart from anything else, also are under-capitalised and require a great deal of supervision. In the case of companies whose income is below Rs. 25,000, they already get a rebate of three annas and many non-scheduled banks probably fall in this category. They get a rebate of three annas in the super tax, and pay super-tax only at Rs. 0-1-9. In the light of

this graded scale, it does not seem that there is a case for any *ad hoc* concession.

There was a charge that concession—again it proceeded from Shri V. P. Nayar—given to repatriate capital from abroad enabled black-marketers to bring back their Indian profits hoarded abroad. From the fifth proviso inserted by clause 3(1) (a) of the amendment, the concession applies only to so much of the income, profits and gains as accrued or arose to him without India and were not chargeable under this Act, unless brought into or receivable in the taxable territories.

Virtually, the concession is applicable only to profits earned before 1939 because till then tax was charged only on the basis of remittance from abroad, and not on the basis of accrual abroad. Before exemption is allowed, the assessee will have to prove that the profits remitted were foreign profits and related to the period in which his income was not chargeable on an accrual basis. Now, blackmarket, to my knowledge, is a post-war phenomenon. Therefore.....

The Minister of Defence Organization (Shri Tyagi): It is income-tax free!

Some Hon. Members: A war phenomenon.

Shri C. D. Deshmukh: I mean post-1939 phenomenon, including the period of the war. Therefore, there is really no danger of any blackmarket money being brought into India as a result of the concessions that we have given. *Satyameva Jayate*. The hon. Member has written a letter to me in which he says, "Please remember '*Satyameva Jayate*'." So, I now ask him to accept this explanation.

Now, I come to this question of delays in assessment. There is no doubt that during the war years the Department accumulated heavy arrears on account of the inadequacy of the staff to cope with the unprecedented volume of work. One must remember that one lived in unplanned days and if one had the wisdom which a historical retrospect always gives us, one should have felt that the administration of that time failed in not providing for a staff sufficient to cope with the increased volume of work that was inevitable during a war period. I suppose the reason is that when a war starts, every party thinks it will be a

matter of only a few months and that they will be the victors. Now, since 1947 when we started to be responsible we have taken active steps to meet the situation. Up to date about 350 extra officers have been recruited. Even now, the U.P.S.C. are in the process of recruiting 215 more Income-tax Officers. Secondly, instructions have been issued to deal with petty cases without very meticulous examination. And then, as the House is aware, the recent raising of the maximum exemption limit from Rs. 3,600 to Rs. 4,200 would reduce the number of assesseees by 70,000 and therefore, more time can be devoted to the other cases. Further, quite often delays are due to the obstructive tactics—this is a point which I would like the House to remember—adopted by assesseees. For getting adjournments, I am afraid, the *munim's* mother is always known to die. Perhaps estate duty may check this tendency for the *munim's* mother to die a number of deaths! And lastly, it takes time to train income-tax officers. Nowadays, it looks easy to us to prepare ourselves for shouldering any kind of burden in life, but even those who take that view. I think, will concede that income-tax is a very complicated business. Even the law is very complicated apart from the accounts, and it takes time, as I said, to train Income-tax Officers, and there is a limit to the speed with which we can find officers. Now, delay in assessment means that the assesseees do not know their liabilities, and quite often, by the time the assessment is made, the money is frittered away. So far as the assessee is concerned, he need not be under any difficulty in paying his tax to the extent he considers it due. If he is a wise man, he will make as exact an estimate as he can, because section 18A permits him to make advance payment of 80 per cent. of his tax on the basis of his own estimate, and under section 23B he can have a provisional assessment made by the Income-tax Officer, get an assessment made in a summary manner. If his returns are correct, there is no reason why he should be required to pay any more at the time of the final assessment.

Then, somebody made, I think lightly, the remark that the Income-tax Officers do not do enough work, attend office late, and are in a hurry to attend the club. I think it was Mr. Bogawat. He is not here either. He is perhaps at a club! Now, the standards of work have been prescribed for Income-tax Officers and a careful and systematic watch is maintained on their output against these standards. This system of prescribing standards has been

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criticised on every ground, but never on the ground that it does not give sufficient work to the Income-tax Officer. In fact, in paragraph 401 of their report, the Income-tax Investigation Commission have said:

"In defining the charges and in allocating work on the time factor, sufficient allowance should be made for all the different facets that the I.T.O.'s work presents. This we think is not being done now, at least adequately."

Shri Bogawat suggested that the duties of inspectors should be prescribed statutorily and they should be given the right to attach accounts. The purpose of bringing inspectors within the definition of income-tax authority is to make them statutory officers. They are intended to perform a variety of duties, and it is for this reason, that details of such duties have not been prescribed in the statute. They will be performing such functions as are assigned to them by their superiors. After all, the duty of an inspector is to inspect. The right to impound accounts while on survey was not recommended by the Income-tax Investigation Commission, and the matter was not considered for purposes of this Bill which is confined, as far as possible, to non-controversial matters—at least that was the original hope.

There was also some observation in regard to the inequity of imposing a penalty for non-payment even though the tax was reduced or remitted in appeal. I think the point was made by Pandit Thakur Das Bhargava. In this regard, we issued instructions in October, 1949, that when the tax was remitted in appeal, it would not be equitable to recover any penalty for non-payment of the tax and that the Commissioners should revise the penalty order under section 37A. Obviously, some stray individual case has come to the notice of the hon. Member. If in any case our instructions have not been carried out, then, I should be very grateful—the hon. Member is not here, but I may write to him about this matter—if he brings that specific case to our notice.

So, I have now dealt with all the important points—most of the points—that have been raised in this debate, and I therefore commend my motion.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922 as reported by the Select Committee, be taken into consideration."

✓ The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Amendment of section 4 etc.)

Shri V. P. Nayar: I beg to move:

(i) In page 17, line 6, after "who" insert "was ordinarily resident, but."

(ii) In page 17, line 16, after "person" insert "ordinarily".

(iii) In page 17,

(a) line 24, for "(i)" substitute "(ii)";

(b) line 27, for "(ii)" substitute "(iii)"; and

(c) line 34, for "(iii)" substitute "(i)".

(iv) In page 18, for lines 4 to 12, substitute:

"(i) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation, whether solely or in part, for religious or charitable purposes, in so far as such income is applied for such purposes only or is finally set apart for application thereto."

(v) In page 18, line 25, after "wholly" insert "or finally set apart".

(vi) In page 19, line 41, add at the end:

"and the words "which does not ensure for the benefit of the public" shall be omitted".

(vii) In page 17, after line 38, insert:

"Provided further that the concessions in tax under this section, shall not be given to persons having business or interests in business in India and interests in branches of such business organisations in which they have direct or indirect connection functioning in foreign countries."

Shri Nambiar (Mayuram): I beg to move:

(i) In page 18, line 39, add at the end:

'and the following proviso shall be added, namely:—

"Provided that the house is built to be rented out for industrial labour, lower middle class people, clerks and peons and the rent whereof is fixed by the Government."

(ii) In page 18, omit lines 42 to 49.

(iii) In page 19, omit lines 1 to 14.

(iv) In page 19, omit lines 15 to 23.

Mr. Deputy-Speaker: Amendments moved:

(1) In page 17, line 6, after "who" insert "was ordinarily resident, but".

(2) In page 17, line 16, after "person" insert "ordinarily".

(3) In page 17,

(a) line 24, for "(i)" substitute "(ii)";

(b) line 27, for "(ii)" substitute "(iii)"; and

(c) line 34, for "(iii)" substitute "(i)".

(4) In page 18, for lines 4 to 12, substitute:

"(i) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation, whether solely or in part, for religious or charitable purposes, in so far as such income is applied for such purposes only or is finally set apart for application thereto."

(5) In page 18, line 25, after "wholly" insert "or finally set apart".

(6) In page 19, line 41, add at the end:

'and the words "which does not ensure for the benefit of the public" shall be omitted'.

(7) In page 17, after line 38, insert:

"Provided further that the concessions in tax under this section,

shall not be given to persons having business or interests in business in India and interests in branches of such business organisations in which they have direct or indirect connection functioning in foreign countries."

(8) In page 18, line 39, add at the end:

'and the following proviso shall be added, namely:—

"Provided that the house is built to be rented out for industrial labour, lower middle class people, clerks and peons and the rent whereof is fixed by the Government."

(9) In page 18, omit lines 42 to 49.

(10) In page 19, omit lines 1 to 14.

(11) In page 19, omit lines 15 to 23.

Now, whichever hon. Member wants to speak may speak. If there is nobody who wants to speak, I shall call the hon. Minister.

Shri V. P. Nayar: I shall speak on my last amendment.

Mr. Deputy-Speaker: He may speak on all the amendments together. I will not give him a chance later.

Shri V. P. Nayar: I want to speak only on my last amendment. The hon. Finance Minister told us just a few minutes ago that I referred to money made in blackmarket. I do not remember that I myself used the expression 'black-market money.' It is open to him to verify the uncorrected report of my speech, and if I have not used the word 'blackmarket money' let him not impose the anachronism which he alleges.

I wish to point out that the purpose of this amendment is to prevent a possible malpractice. I understand that there are certain firms in India, having their branches in the United Kingdom, the United States of America, or every other country, under real or pseudo-names. I shall explain my point better by illustrating a particular case. Supposing A, a firm in Calcutta has a branch in the U.S.A. That branch purchases a consignment of, say, lead pencils, at the rate of three dollars per gross or something like that. The branch sends the consignment to the firm A in Calcutta, at

[Shri V. P. Nayar]

an inflated price at five dollars a gross. This occurs very often, and in some cases, I know the prices are 100 per cent. more than what they are, so that they draw their bills on the Indian head office, and get some more money, which they keep with them in foreign banks—in foreign currency. On the money which Indian traders have been able to keep in the United States of America there has been a consistent systematic blackmarketing in India. That is what I said.

Shri C. D. Deshmukh: In exchange?

Shri V. P. Nayar: Yes. I think it is known by some name like *bhatta*. The Government of India may feel difficulty in getting exchange and shortage. But some of the merchants do not find any. Supposing I am a dealer, and I want to go to America and purchase some goods, it is enough if I go to a place like the Royal Exchange Place at Calcutta, contact a broker there, get into touch with some firm which has a branch in America, pay the *bhatta* rate at Calcutta, and then take a chit. That chit will give me as many dollars as I want, from the money which is in the blackmarket. I do not say, the money earned by the blackmarket, but the money in blackmarket. This is made good in India. There seems to be a very nefarious trade going on in this, and under the present rules, the Government cannot do anything in the matter.

They are in conference, Sir, and I thought I would better stop.

Mr. Deputy-Speaker: But they have pledged their ears to the hon. Member.

Shri T. N. Singh (Banaras Distt.—East): In the meantime, may I ask the hon. Member what he means by chit? Does it mean that some parties have got extra or surplus dollar reserves in the United States of America, so as to adjust the account? If so, how did they get this extra dollar reserve?

Shri V. P. Nayar: Certainly that is one business. There is another business from India also. Supposing you consign 1,000 or 2,000 tons of jute, and your own firm is there in America, then you consign it under that name. While the market rate for a particular quantity is, say, Rs. 100, you consign it to America and draw a bill only for Rs. 30, while in the United States of America they sell it at Rs. 100, and

take Rs. 70 on that, but send Rs. 30 only to India, thus keeping all the rest of the money in America.

Shri T. N. Singh: But I think the hon. Member is not aware of the fact that the Reserve Bank is fully seized of the position, particularly in regard to under-invoicing and over-invoicing, and wherever they are able to do so, they are pursuing these matters.

Shri V. P. Nayar: I can only point out to my hon. friend, Mr. T. N. Singh, that the details of the *modus operandi* of such nefarious transactions are given in the famous book *Mysteries of Birla House* written by Prof. Debajoti Barman. It is a well-documented version of certain malpractices in regard to income-tax evasion. If my hon. friend reads that, he will know. I hope he has read it, but he is likely to forget. The entire details of the *modus operandi* of such nefarious transactions are there. I put this to the Finance Minister—it is again open to him to say if I am right. I do not know much about the Reserve Bank; he may be knowing much better. My hon. friend said he was in the trade. He was quoting to me a Malayalam proverb. I wrote to him immediately for that because from the way in which he quoted it, I thought it was either Greek or Telugu; it was not Malayalam. I could quote to him. There is a proverb in our language:

*Cheruppa kalangalil ulla sheelam
Marakumo manushan ulla kalam*

It means—such things which you have imbibed in your childhood you are not likely to forget in your old age till you die. If the hon. Minister was in the Reserve Bank for a long time, he knows what it is. Let him tell us what is the possibility of such transactions, as I say, in both this and also in *bhatta*. I understand that in *bhatta* there is a very big trade going on both in Calcutta and in Bombay, and I would like to know from the hon. Minister how this particular aspect is guarded against. I am sure, that he is going to give me an assurance in this respect in consultation with the Minister of Commerce who must be knowing *bhatta* better. I have nothing more to add in this.

Shri Namblar: There are certain amendments in my name, but I want to stress on my first amendment.

Mr. Deputy-Speaker: I heard the hon. Member, Mr. Nayar, conclude by saying: 'I have nothing more to add in this'. I want him to conclude on all the amendments. If he wants to speak on any of the other amend-

ments, I am not going to call him again.

Shri V. P. Nayar: It is not easy for us to go through the amendments as you read the number.

Mr. Deputy-Speaker: I want to know if he has finished with all amendments.

Shri V. P. Nayar: There is some difficulty also. The page numbers referred to in the list printed seem to be.....

Mr. Deputy-Speaker: I will not allow him to speak again. I have told him many times. Either he has to speak on all the amendments or he does not speak at all. I will not call him again.

Shri V. P. Nayar: That is all right. I will have many more opportunities later.

Shri Nambiar: The construction of houses, of course, is a good thing. But the construction of houses for what purpose? Anybody who builds a house should not be given the benefit of the exemption of income-tax.

Mr. Deputy-Speaker: What is the amendment he is referring to?

Shri Nambiar: No. 44, List No. 5. What I have to submit is this. In the case of those persons who construct houses for the purpose of habitation of ordinary people, I can understand, but not those who construct palaces for the purpose of luxury and to see that somehow or other income-tax is to be evaded. Such persons should not have the benefit. That is why I wanted it to be put here very specifically—houses constructed for industrial labour, lower middle class people, clerks and peons and the rent whereof is fixed by the Government. Ordinary people must have the benefit. Otherwise, it will be at the cost of the ordinary people and those persons who want big palaces built for themselves will have the benefit. So, will the hon. Minister distinguish between these two classes of construction of houses and see that such of the houses which are under certain conditions or certain limitations, for the purpose of the common man will have the benefit, and the others will not have it? If he can satisfy me on that or if he will accept my amendment, the problem will be solved. That is what I have to submit. I hope the hon. Minister will bear this point in mind and will do justice.

Shri C. D. Deshmukh: There are two points raised. One was by Shri V. P. Nayar about consignments to

branches. Now, as he has appealed to my experience of what happens, I am free to admit that this is going on all the time in the sense of accumulation of foreign exchange by the under-invoicing of exports or the over-invoicing of imports, the idea being to take a slice and to keep it in the foreign country, not to make payment, because the payment due is either less or more, as the case may be. Recently there has been a practice even of under-invoicing of imports because perhaps the licensed quantities are not sufficient and they want to import more than what the amount would indicate.

Now, this problem came to the notice of the Reserve Bank many years ago and we have gradually been tightening the machinery for trapping these amounts. I do not think there is any country which has succeeded in entirely eliminating these practices. That just is not possible. The law-breakers are far too ingenious and the variety of methods available to them is very large. That is one of the difficulties of the sterling area, the problem of cheap sterling, and arbitrage operations of all kinds go on all the time. I should not like to make a guess what our loss is, but that loss occurs, of course, primarily in a field which is still more important to inland revenue, and that is foreign exchange. As far as lies in our power, we certainly are taking steps to minimise the extent of damage done. The customs appraisers, for instance, are able to exercise a certain amount of check. Recently my hon. colleague has established an 'intelligence unit' and it would be its function to keep a watch on just this kind of abuse. But I doubt whether for that reason—because we are not able to stop such loopholes—we should take the extreme step of stopping the ingress of capital which is so badly needed in this country. So it is really a question of a sense of proportion, and I myself would not accept the position that because we have not been getting hundred per cent success in dealing with the situation which Shri Nayar has described, therefore, we ought to modify the salutary provision that we have introduced. That is why I am not able to accept his amendment.

Then there is amendment of Shri Nambiar. The object is that the exemption should be given only to houses built for poorer classes whose rent is fixed by Government. Now, the exemption is given to induce construction of houses with a view to reducing shortage, and it is really not possible in the economic sphere to classify shortages as shortages for the poor and shortages for the rich. The

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situation is very fluid. When more houses become available, then we find that rents come down, and no matter that the houses have been built even for the richer classes of the community, because there is a movement—those who have sufficient purchasing power move into these higher-priced houses and certain other houses become available—and in that general movement, I am quite sure that the poor would also participate. In any case, the regulation of houses and the construction thereof cannot be achieved through the Income-tax Act, and if the problem does exist, in spite of what I say, then we should have to adopt some other legislative course in order to cope with it. I think that this amendment in this particular form—omitting this concession—would be ill-advised in the interests of the community at large, and therefore, I am unable to accept it.

Shri Nambiar: May I know how the poor can go to Barda House, Mandi House and other houses of that type? I do not understand how the poor man will benefit with respect to such houses.

Shri C. D. Deshmukh: I say in all scarcities—to the extent to which a scarcity is corrected to that extent prices fall. If prices fall, then the whole of the community shares it. One does not say that a particular amount of additional gain comes only to the rich. This adds to the total stock of living space available. That is the sense in which the poorer people are bound to benefit, although, as I say, the process will not be direct. It has to be spread over a period of time and if one has any objection to big houses and so on, as I say, there should be other direct methods which should be adopted if that is considered desirable for planning purposes.

Shri V. P. Nayar: Is there any maximum amount prescribed which will not be taxable and which can be spent on buildings?

Shri C. D. Deshmukh: There is no maximum.

Mr. Deputy-Speaker: I will now put the amendments to the vote of the House.

The question is:

In page 17, line 6, after "who" insert "was ordinarily resident, but".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 17, line 16, after "person" insert, "ordinarily".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 17,

(a) line 24, for "(i)" substitute "(ii)";

(b) line 27, for "(ii)" substitute "(iii)"; and.

(c) line 34, for "(iii)" substitute "(i)".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 18, for lines 4 to 12, substitute:

"(i) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation, whether solely or in part, for religious or charitable purposes, in so far as such income is applied for such purposes only or is finally set apart for application thereto."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 18, line 25, after "wholly" insert "or finally set apart".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 19, line 41, add at the end:

'and the words "which does not ensure for the benefit of the public" shall be omitted'.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 17, after line 38, insert:

"Provided further that the concessions in tax under this section, shall not be given to persons having business or interests in business in India and interests in branches of such business organisations in which they have direct or indirect connection functioning in foreign countries."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 18, line 39, add at the end:

'and the following proviso shall be added, namely:—

"Provided that the house is built to be rented out for industrial labour, lower middle class people, clerks and peons and the rent whereof is fixed by the Government."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 18, omit lines 42 to 49.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 19, omit lines 1 to 14.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 19, omit lines 15 to 23.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4.— (Amendment of section 5 etc.)

Shri Banerjee (Midnapore-Jhargram): I beg to move:

In page 21, after line 4, add:

"(i) Appellate Assistant Commissioners of Income-tax shall be subordinate to the Appellate Tribunal within whose jurisdiction they perform their functions;"

Shri S. V. L. Narasimham (Guntur): I beg to move:

In page 21,

(a) line 29, for "may demand" substitute "if demands",

(b) line 32, after "he" insert "shall",

(c) line 32, for "re-heard" substitute "heard de novo".

Mr. Deputy-Speaker: Amendments moved:

(1) In page 21, after line 4, add:

"(i) Appellate Assistant Commissioners of Income-tax shall be subordinate to the Appellate Tribunal within whose jurisdiction they perform their functions;"

(2) In page 21,

(a) line 29, for "may demand" substitute "if demands",

(b) line 32, after "he" insert "shall",

(c) line 32, for "re-heard" substitute "heard de novo".

Shri S. V. L. Narasimham: My amendment speaks for itself and it does not require any speech from me.

Shri Banerjee: The hon. Minister said that the Income-tax Officers are executive rather than judicial officers. From his speech, as I have come to know, the real trouble arises when they are the persons who assess primarily and against their decisions the Appellate Assistant Commissioner gives a decision. There is a proviso to sub-section (8) of section 5 which says:

"Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions."

Though there is this order, still the trouble arises because these appellate officers are under the direct control of the Central Board of Revenue and their future depends upon the Central Board of Revenue. Sub-section (8) declares the over-riding power of the Central Board of Revenue to issue instructions and directions to all officers of the Government. So, it is very difficult for such officers to discharge their duties with impartiality and independence as long as their future depends upon the Board of Revenue. So, it is desirable that when it really goes to the Appellate Assistant Commissioner, there is some decision. What I mean is, that though the ideals are just, how many

[Shri Banerjee]

people have funds to approach the Tribunal. So, the matter ends there, the curtain is dropped. How many people have got the funds—no matter even if they have a mind to go. My amendment is that they be taken away from the control of the Board of Revenue and may be placed under the Tribunal.

Shri C. D. Deshmukh: There are only two points. The first one is about the assessee demanding that he shall be heard *de novo*. As the Bill stands, an assessee may be re-heard by the existing authority and, if he so demands, I think *a fortiori*, there can be no doubt that the Income-tax Officer shall give him a hearing, as he cannot brush aside the right given to the assessee by the statute. I do not think this amendment is necessary.

Regarding the other point, I have made my observations at some length and I deny that there is any interference with the Appellate Assistant Commissioners in the discharge of their judicial functions. There is actually a provision, section 5(8) of the Income-tax Act in this regard, and I can claim that it is being scrupulously observed. Therefore, I am not able to accept both these amendments.

Shri Barman (North Bengal-Reserved—Sch. Castes): The Income-tax Investigation Commission in their report in recommendation No. 148 said, in the last sentence: "Their leave, transfers and postings should be in the hands of the Tribunal". Why something could not be done so that most of the misgivings in the minds of the public may be lessened to a great extent?

Shri C. D. Deshmukh: I understand the Tribunal has no administrative connection with the officers of the Income-tax Department. Once we concede the major premise that their work cannot be transferred—the work that a man does has a vital connection with his leave, transfer, promotion etc.—you cannot give only that kind of authority to another power which is entirely outside the whole range of this administrative structure. That is the reason why we cannot accept that kind of very unsatisfactory solution of the problem.

So far as the recommendation of the Income-tax Investigation Commission is concerned, all I can say is that either we failed to place all the facts and considerations before them

or they did not see them. I cannot now go into the history of it; but, we did place all our considerations now before the new Commission and they have come to the conclusion that what we say is correct.

Mr. Deputy-Speaker: The question is:

In page 21,

- (a) line 29, for "may demand" substitute "if demands",
- (b) line 32, after "he" insert "shall",
- (c) line 32, for "re-heard" substitute "heard *de novo*".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 21, after line 4, add:

"(i) Appellate Assistant Commissioners of Income-tax shall be subordinate to the Appellate Tribunal within whose jurisdiction they perform their functions;"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5.—(Amendment of section 5A etc.)

Shri V. P. Nayar: I beg to move:

In page 21, line 40, omit "civil".

Mr. Deputy-Speaker: Amendment moved:

In page 21, line 40, omit "civil".

Is any other hon. Member moving any amendment?

Shri Nambiar: The pages given in the book supplied to us are different. It is said, in page 25 and then we look to that page, we do not see it there.

Mr. Deputy-Speaker: I can understand other hon. Members not being able to follow, but the hon. Members who have tabled the amendments have got the books.

Shri V. P. Nayar: We have referred to certain pages, but in the books that we have now there are certain other pages.

Mr. Deputy-Speaker: Why not bring that to my notice?

Shri V. P. Nayar: We ourselves are not able to locate the root of the trouble, yet.

I would only submit my amendment for the consideration of the hon. the Finance Minister. Let him think whether my amendment will not be desirable.

Mr. Deputy-Speaker: Does the hon. Member want a magistrate to decide this matter? A magistrate is not expected to know much about income-tax.

Shri C. D. Deshmukh: The interpretation of the income-tax law also involves interpretation of many questions of civil law; it has really no connection with criminal law.

Mr. Deputy-Speaker: I do not think the hon. Member is pressing it.

Shri V. P. Nayar: I beg to leave to withdraw the amendment.

The amendment was, by leave, withdrawn.

Amendment made:

In page 21, after line 46, insert:

"(c) in sub-section (4), after the word 'shall' the word 'ordinarily' shall be inserted."

—[*Shri C. D. Deshmukh.*]

Mr. Deputy-Speaker: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6.—(Amendment of section 7 etc.)

Shri Banerjee: I beg to move:

In page 22, line 3, after "State Government" insert "or of any local authority or recognised private institution".

I appeal to the hon. Minister to give some attention to this amendment and see whether he can accept it.

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Shri C. D. Deshmukh: I am afraid I cannot accept it, because the conditions of service of employees of local authorities and private institutions are not identical and their salaries are in no way regulated by Government. Therefore, we cannot accept parallelism between those and Government employees.

Mr. Deputy-Speaker: The question is:

In page 22, line 3, after "State Government" insert "or of any local authority or recognised private institution".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7.—(Amendment of section 9 etc.)

Amendment made:

In page 22, lines 29 and 30, for "it shall be lawful for the Income-tax Officer to revise it" substitute "the Income-tax Officer concerned shall revise it."

—[*Shri V. P. Nayar.*]

Mr. Deputy-Speaker: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 11 were added to the Bill.

Clause 12.—(Amendment of section 18 etc.)

Shri Tulsidas (Mehsanani West): I beg to move:

In page 25, lines 49 to 51, omit 'after the words "Any deduction made" the words "and paid to the account of the Central Government" shall be inserted'.

Mr. Deputy-Speaker: Amendment moved:

In page 25, lines 49 to 51, omit 'after the words "Any deduction made"

[Mr. Deputy-Speaker]

the words "and paid to the account of the Central Government" shall be inserted'.

Shri Tulsidas: I wish to explain why my amendment is necessary. The hon. Minister has no doubt clarified the position this morning during the course of his speech. He said that they are going to adopt a revised way of assessment, namely, the current income will be assessed. Therefore, he does not feel it necessary that the interest should be allowed to continue to be paid. The most important reason why the Income-tax Investigation Commission has recommended an increase in the rate of interest is not based on this question of assessing the current income or previous income. According to the amendment made by the Select Committee, interest will not be paid any more except for certain specified amounts. I would like to point out, when the Finance Minister says that the delay in assessment is not due to his Department but to other causes also, that there are many examples where once the amount is recovered by the Department, no interest is paid. Even today, a lot of delay takes place, because once the amount is recovered, the Department feels that after all the money has been recovered. A lot of delay occurs in finalising the assessment. This is so even in the case of public limited companies. I know of instances where assessment for the year 1940 or 1941 has not been completed. In such cases, due to the E. P. T. Act there are complications and the Department feels it quite in order to see that the assessment is not finalised. The recommendation of the Commission was based on the fact that if more interest has to be paid for advance payments, the Department would be more alert and complete the assessment early. That is the point which I also wish to stress. It is not merely a question of revising the way of assessment. I would like the Finance Minister to look at the question from this point of view.

Shri C. D. Deshmukh: We are on clause 12 and I do not understand how this point arises here.

Shri Tulsidas: I am sorry that I have begun to speak on clause 13, to which only my next amendment relates and not this one.

Now, coming to clause 12(c), it is said that while according to the law an employer may deduct the income-tax from the salary of the employee, yet if the employer does not in his turn pay the deducted income-tax to the Government, the employee is res-

ponsible. I think the employer deducts the income-tax as an agent of the Government, and therefore, if he fails to pay the amount to the Government, why should the employee suffer? I do not see any reason or logic in it.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): It is a simple matter of law, and not of logic.

Shri Tulsidas: It may be so to him, but to me it looks that we are very hard on the employees. The employee has already paid the amount, and the law permits deduction at source. Why should he again be held responsible, because the employer who has deducted the amount does not pay it to Government?

Shri T. T. Krishnamachari: There is another section to protect the employee.

Shri T. N. Singh: I feel that for a proper consideration of the point raised by my hon. friend Mr. Tulsidas, we should know that when an income-tax is assessed on an assessee and he enters into a dispute about the amount and the whole thing drags on for three or four years, the assessee can get away by paying only the undisputed amount and the disputed amount may not be paid.

10 A. M.

Shri Tulsidas: You are again referring to section 18A, which arises only on the next clause.

Shri T. N. Singh: Well, then, regarding the other point raised by my hon. friend, namely, about the employees, I am in sympathy. I know of cases where the employers have actually deducted income-tax from the employees and they have failed to pay the amount to the Government. The employee has paid the amount knowing that the employer is acting as the agent of the Government; otherwise, he would object to the deduction of the amount from his salary. Once the deduction has been made and the employee has agreed to it in all good faith, why should he be held responsible if the other party fails to pay?

Shri T. T. Krishnamachari: He need not labour that point, because the third proviso to section 7 looks after that.

Shri Tulsidas: But if you read clause 12(c), it is clear that if the amount is not paid to the Government by the employer, the employee will be liable, even though the

amount has been already deducted from his salary by the employer.

Shri T. T. Krishnamachari: He does not seem to bear in mind that this is a matter *inter se* between the Government and the employer. If the employer who shows the deduction in his books does not actually pay, he does not get the benefit of the deduction, but whereas, as far as the employee is concerned, here is the proviso to section 7 which says:

"Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction."

The employee is covered there. This amendment is only to see that an employer who fraudulently withholds payment to the Central Government but merely makes a deduction in his books does not get the benefit of the deduction.

Mr. Deputy-Speaker: Does Mr. Tulsidas want me to put his amendment to vote?

Shri Tulsidas: No, Sir, I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13.— (Amendment of section 18A etc.)

Shri Tulsidas: I beg to move:

In pages 26 and 27, omit lines 44 to 48 and lines 1 to 9 respectively.

I spoke on this clause by mistake during the previous clause.

Mr. Deputy-Speaker: I would, if he likes, ask the Reporter to transpose his speech from there to this clause.

Shri Tulsidas: No, Sir, I would explain it in a few words. The Finance Minister stated that his Department is now considering a revision of the method of assessment. He quoted the example of Britain and said that only the current income is assessed there, whereas here we tax even previous years' income. The recommen-

dation which the Income-tax Investigation Commission has made in regard to increasing the rate of interest for advance payment was made not merely from the point of view as to whether the income should be assessed on the basis of the current year's income or it should be assessed on the basis of previous year's income. But the reason why they recommended it was that a lot of assessments are delayed. And once the tax is collected by way of advance payment under section 18A the tendency in the Department is that they are not in a hurry to make the assessments. I know in several cases assessments are delayed even from 1941. In regard to public limited companies where there is the question of law it is a complicated matter because of E. P. T. In any case the assessments should have been over now. I find once the money is collected this is the tendency of the Department, which is the experience of most of the assessees. If the interest were kept, even if it is not increased, then it would be at least something as it will make the Department alert, so that as soon as the assessment is over the assessee knows what the assessment will be and knows his responsibility. At least the rate of interest should be kept, even if it is not increased. The Investigation Commission asks for an increase. That is the point I wanted to make.

Shri C. D. Deshmukh: I have given an elaborate explanation of the whole situation. So far as the salaried person is concerned he does not get any such advantage. There is no reason why any one else should get it.

Mr. Deputy-Speaker: The question is:

In pages 26 and 27, omit lines 44 to 48 and lines 1 to 9 respectively.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 was added to the Bill.

Clause 15.— Amendment of section 24 etc.)

Shri C. D. Deshmukh: I beg to move:

In page 28, line 16, after "substituted" add: 'and for the words "the

[Shri C. D. Deshmukh]

portion not so set off" the words "so much of the loss as is not so set off or the whole loss where the assessee had no other head of income" shall be substituted'.

This amendment has become necessary in view of certain observations contained in the Supreme Court judgment in the case of the Anglo-French Textile Company. I referred to it in my general observations. The view taken was that the carry forward should be admissible only if the assessee had set off loss in the first year against any other head. The assessment is in favour of the assessee and as I have already given the justification for it in my speech, I now commend the amendment to the House.

Mr. Deputy-Speaker: The question is:

In page 28, line 16, after "substituted" add:

'and for the words "the portion not so set off" the words "so much of the loss as is not so set off or the whole loss where the assessee had no other head of income" shall be substituted'.

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 15, as amended, stand part of the Bill."

The motion was adopted.

"That clause 15, as amended, stand part of the Bill."

Clauses 16 and 17 were added to the Bill.

Clause 18.- (Amendment of section 34 etc.)

Amendment made:

In page 28,

(1) line 45, after "shall be omitted" add:

'and for the figures and word "66 and" the figures and word "66 or" shall be substituted'

(2) line 47, for "the word 'section'" substitute:

"the words 'section limiting the time within which any action may be taken or any order, assessment or re-assessment may be made'."

[Shri Pataskar]

Mr. Deputy-Speaker: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clauses 19 to 31 were added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

Shri C. D. Deshmukh: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

CINEMATOGRAPH (AMENDMENT) BILL

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): Sir, if you would be kind enough to permit me, I would like on behalf of my colleague Dr. Keskar to move the motion standing in his name.

I beg to move:

"That the Bill to amend the Cinematograph Act, 1952, be taken into consideration."

The Bill itself is fairly simple and the Statement of Objects and Reasons gives a clear picture of what the Bill is. It is largely due to certain defects that have been noticed in the actual administration of the Cinematograph Act, 1952, which re-enacted the provisions of the 1918 Act, in regard to sanctioning of cinematograph films for exhibition. Under the proviso to section 6 of the Act notice has to be given to the person to show cause why the film should not be uncertified by the Central Government. This provision is not serving any useful purpose. On the other hand it entails a lot of delay and the very object of uncertification is defeated. Therefore, this proviso is sought to be deleted. A number of cases in which films have been exhibited with portions not passed by the Central Board of Film Censors has been brought to Government's notice. Such interpolations are all too easy in the case of films. It is therefore found necessary to recast the penalty clause so as to cover

cases of tampering with certified films. It is also proposed to enhance the penalty in this respect.

There is nothing much to say with respect to the provisions of this Bill except that these variations are not variations in principle but mode of procedure.

Mr. Deputy-Speaker: The titles speak for themselves. The first refers to information and documents to be given to distributors and exhibitors. The other one is penalty.

Shri T. T. Krishnamachari: The question of enhancing the penalty.

Shri S. C. Deb (Cachar-Lushai Hills): On a point of order, Sir.

Mr. Deputy-Speaker: What is the point of order?

Shri S. C. Deb: Whether this Bill was in the Order Paper?

Mr. Deputy-Speaker: The Bill is in the Order Paper. The hon. Member has not seen the Order Paper before he raised the point of order. It is rather surprising. There is no point of order in this. The hon. Member will kindly look hereafter into the Order Paper and be more careful.

Shri Punnoose (Alleppey): It was not in the list approved by the Business Advisory Committee.

Mr. Deputy-Speaker: We are not worried over it. When it is in the Order Paper, hon. Members must be ready. These are small Bills which need not go to the Business Advisory Committee. Hon. Members need not be perturbed over this.

Motion moved:

"That the Bill to amend the Cinematograph Act, 1952, be taken into consideration."

Shri Kasliwal (Kotah-Jhalawar): I have read this Bill with some attention. The object of this Bill seems to be to take away the time of one fortnight which is given to those persons to whom a certificate is granted. Now, I respectfully submit that this is a right which must remain as it is in the Act. If a certificate is changed from an 'U' certificate to an 'A' certificate, then also I submit the person to whom this certificate is granted should have the right to represent to the Government within a fortnight. Similarly, in the case of clause (a) also, if a film becomes a certified film, then also I said that a fortnight's time should be given to that person to make a representation.

The hon. Minister in charge of the Bill himself has tabled an amendment to this Bill. Now the purpose of this amendment seems to be that in the event of a film being declared uncertified all of a sudden, power in that regard should vest with Government. I have no objection to that being given but again I submit that the question of giving a fortnight's notice must remain there.

Shri Punnoose: The consideration of the Bill at this time creates some difficulties. Very important Bills have been placed before the House and we have not been able to look into the present Bill. There is no time for moving amendments. We do not know what we are doing exactly.

Mr. Deputy-Speaker: I agree that hon. Members must certainly have the time to look into them. There is no doubt about this. I can only say that these are small Bills not involving any important matter but it is for the House to consider. I have nothing to say. I can only tell the hon. Member concerned that Mr. Khubchand Sodhia has tabled amendments. I have them here and the hon. Minister has tabled another amendment.

Shri M. S. Gurupadaswamy (Mysore): We thought that this Income-tax (Amendment) Bill will go on till Monday and so.....

Mr. Deputy-Speaker: If hon. Members wanted to speak, I had no objection but how can I go on merely looking at hon. Members to see whether they want to speak or not. Let us get through this.

Shri M. S. Gurupadaswamy: We are expressing our difficulty.

Shri Raghavachari (Penukonda): On the first day when this Bill was put in the Order Paper, a point was raised here before the Speaker and then the Speaker pointed out that this was not one of those Bills which were recommended by the Business Advisory Committee. Then the Speaker was pleased to say that primarily only the Bills recommended by the Business Advisory Committee will be taken up. So we are not prepared. We have not got the papers and the business of the House is over earlier. Even the hon. Minister is not here. He too is under the same impression. When the business of the House is over, the subject which is going to be discussed immediately thereafter should be one of those recommended in the Order Paper and not surprisingly another subject on which we are not prepared at all. That is the point, Sir.

Mr. Deputy-Speaker: I have heard all the points. So far as the Business Advisory Committee's functions are concerned, they have been thoroughly misunderstood by hon. Members. It is not the business of the Business Advisory Committee to assign work unless a particular Bill is there. Leaders of Groups are invited to settle the maximum time they may take. Small Bills like this are not referred to the Business Advisory Committee and then their opinion is asked for as to how long a particular Bill may take to get through, what is the possible time within which consideration, general discussion, may be over, when the clauses and the third reading will be taken up, etc. There must always be such Bills. We must justify that we are doing work. We cannot come here and get away. Therefore, so far as Mr. Raghavachari is concerned, he may know that other hon. Members have tabled amendments to this Bill. I have got them before me. This Bill is in the Order Paper. Therefore, I do not think that no hon. Member will be willing to speak on this matter. I will proceed with the clauses in the Bill.

Shri Raghavachari: One minor point. The recommendation of the Committee was binding. The assurance and the explanations given in the House made us to understand

Mr. Deputy-Speaker: No assurance has been given that other work will not be taken up, that other smaller Bills will not be taken up which are of a formal nature. This Bill is in the Order Paper. He will kindly refer to it. The hon. Minister may have some other work. We are not guided by it. Any hon. Member can speak.

Shri K. K. Basu (Diamond Harbour): Are we discussing clause by clause now?

Shri T. T. Krishnamachari: A point was raised that the action must be delayed by a fortnight. When you realise that there is something wrong in one portion of a film and that portion has to be uncertified, there is no point in allowing the film to go on for a fortnight. I do not think there is much point in allowing it to go on for about a fortnight. The hon. Member has himself admitted the position that he has envisaged of any absolute ban operating adversely against the party, by an amendment that has been tabled which amends clause 6 by adding a sub-clause (c) to it which says that no such direction can remain in force for more than two months within which time the parties can represent their point of view. That can be heard and the notification might be amended,

rectified or withdrawn or it may be decided that the notification must continue. So, the position for review is provided in the amendment.

If the House permits the question of any time being given for persons to register their view point, the mischief that has been done would continue to be done.

Shri T. K. Chaudhuri (Berhampore): We have heard the hon. Minister but these amendments relate to.....

Mr. Deputy-Speaker: I have not come to the amendments.

Shri T. K. Chaudhuri: At the consideration stage. There are only two...

Mr. Deputy-Speaker: I will allow them.

Shri T. K. Chaudhuri: This Bill relates to uncertification of films which have been certified by the Board of Censors. In all fairness, the Government should give some time to the aggrieved party to make some representation to the Government.

Shri T. T. Krishnamachari: That is being done. There will be only a ban, an absolute ban for a period of two months. That will be the outside limit. It may be much less; but within that time, they may make a representation and if it is felt that Government action is not the proper one, it will be reviewed.

Mr. Deputy-Speaker: The mischief will be done otherwise. They want to ban the film immediately. There is nothing to prevent a representation being made. That is the view of the Government.

Shri Nambiar (Mayuram): In the mean time the show of the film will be stopped.

Mr. Deputy-Speaker: Otherwise, the whole object will be frustrated if it is continued to be exhibited.

Shri Nambiar: Some portions are exhibited without the Censor Board's sanction. The whole show will be stopped.

Mr. Deputy-Speaker: How can that be got over?

Shri Nambiar: What he wants is that he must be given some time to think and explain his position before the Government before the show is practically stopped.

Shri T. K. Chaudhuri: Sir, it has to be remembered that the film has already been censored and passed by the

regional board of censors. Subsequently, Government wants to uncertify a film. When one competent body has already considered the whole film, I think, in all fairness, the aggrieved party should be given an opportunity. The two months' time which has been provided in the new amendment tabled by the hon. Minister does not actually provide for a representation being made. Government may of their own accord or on their own initiative review the decision. Where is the express provision by which the party concerned can make some representation to the Government and an appeal could be made? These things are not there.

Shri T. T. Krishnamachari: The whole thing has arisen because it often happens that some such thing escapes the attention of the censors. Some particular passage might cause a lot of complication and an injury would be done to public sentiment. When it is detected that an injury is being done and if it is allowed to go on, there is a continuance of the damage, urgent action is called for. When urgent action is called for, you cannot play with time by merely saying that some persons are inconvenienced. Certain other persons to whom it is an injury might suffer. It is a question of balancing the considerations. You cannot expect the Government to ignore all these factors and go on issuing an order without taking into account, at any rate, whether there is or there is not a *prima facie* case for Government action. If Government realises that action has got to be quick and urgent, you cannot play with time and give a fortnight's time to somebody to make representations. In the mean time, a lot of damage may continue to be done. The basic fact really is that something has escaped the attention of the Board of Censors. I cannot envisage all the conditions that would be present in a matter where Government action is called for. If that could be done, we would have enumerated all those things in this Bill. There may be an innuendo or a reflection on certain groups of people which may have missed the Board of Censors. It is only in such cases, when new facts come to light, when urgent action is called for, Government propose to take action. The question of the parties representing to Government is not ruled out. That is provided for by the amendment that I shall move if the Chair will permit. So much so, the injury will not be a permanent injury if it is done inadvertently or owing to lack of all the facts being placed before the Government. The order will be withdrawn within two months. That

is the outside limit: two months. It may be within a fortnight even. The House can leave it to the vested interests who are very powerful who would use the Press and all other methods of publicity to draw the attention of the public to some mischief that Government has done. Every day Government is being pilloried and the public know about it. If the attention of the Government is drawn, the order may be revoked; not in two months, but in a fortnight, or a week. That position is covered. Unless we say that the Government should sit tight and allow the injury to continue to be done to somebody else, an injury which was not within the cognisance of the Board of Censors; I cannot see how I can accommodate the hon. Members in the Opposition.

Shri K. K. Basu: I wish to say a few words.

Mr. Deputy-Speaker: Why did not the hon. Member stand up then? I would have called the hon. Member.

Shri K. K. Basu: I stood up. My hon. friend spoke. Then I tried to get up. The hon. Minister rose.

Mr. Deputy-Speaker: All right; I shall allow as a special case.

Shri T. T. Krishnamachari: I can only repeat what I have to say.

Shri K. K. Basu: Government has brought forward this amendment to the Cinematograph Act which is in force in our country. We know that some time back the Government appointed an enquiry committee to go into the working of the film industry. We know the role that this industry plays. Apart from the economic aspect of it, it has to play a great part in the building up of and educating the community. We know in what way this particular organisation is working. Specially I would like to refer to the Censor Board. I do not know whether the hon. Minister is interested in going to the cinema. If he compared the way in which the present day films are produced with the films produced ten or twelve years ago, specially before the last war, he will find that there has been a definite deterioration in standards whether the production is from Bombay or Bengal or any other part of India. We thought that when the new Government came into power, they would try to utilise such an important vehicle of education in a manner so as to develop a healthy mind and a healthy atmosphere in the social structure of our community. We have seen to-

[Shri K. K. Basu]

day, in many parts of the country, films are produced which try to pamper or rouse the cheap sentiments and cheap feelings of the common man. As a result, we have seen children and boys of tender age, below 16 or 17, and school-going boys going to films which, if you are interested in films, you will also agree, Sir, have a very adverse effect on the mental outlook of these boys.

Shri B. S. Murthy (Eluru): How do you know?

Shri K. K. Basu: For the benefit of my hon. friend, I may say that these gangster movies, the inspiration for which has mostly been drawn from the American films, are still being produced in many places, since the war. Our Government has not come forward with legislation to control and guide and ban such types of films being produced in our country. On the other hand, we have seen films of foreign origin, specially from America and other countries, which definitely depict many things against our national feeling and our national events, are being allowed to be shown and exhibited in our country with all the fanfare, and often with the support of many important high officials or the heads of States in the country.

Mr. Deputy-Speaker: This is an amending Bill. The hon. Member is covering the whole field of films. This is a short amending Bill.

Shri K. K. Basu: We can discuss. Censoring is the most important thing.

Mr. Deputy-Speaker: I have no objection. Much can be said about cinemas, whether children ought to see or not or whether adults ought to see or not. The point is, where a particular portion has escaped the notice of the censors, what is to be done. There seems to be a view here that before banning further exhibition, an opportunity should be given to the people concerned and that only after hearing, it ought to be done. The Government says that the very purpose will be destroyed if it is not banned immediately, and so they want to ban. There is an amendment here by the Government itself saying that this ban shall not continue for more than two months, so as to expedite the entire matter and avoid any loss to the film producer.

Shri T. K. Chaudhuri: If you look into the amendments, Sir, I do not think Government has given proper consideration to their new amendment itself.

Shri T. T. Krishnamachari: We can discuss that when the amendment is taken up.

Mr. Deputy-Speaker: We can discuss that when the amendment comes up. I would like the scope of the discussion to be limited.

Shri K. K. Basu: As you say, Sir, I will not go into the background of censoring. I only wanted to emphasise this point. In view of the appointment of the Film Enquiry Committee, we expected a comprehensive Bill to come from the Government, which they have not done. Apart from censoring, I wish to lay emphasis on the time lag that may occur from the economic point of view. The producers and exhibitors will suffer if a long time is taken.

I want to emphasise one point which has been very often said, viz., that the Censor Board has acted in a manner which is not conducive to the healthy development of films. I may give the example of one film in Bengali which depicts the events of 1942 in Bengal. This was allowed to be shown in some parts of India while it was restricted, especially in Bengal and in some parts of the country. There is another Bengali film from the writings of the great Bengali novelist, Sarat Chandra Chattopadhyaya. It depicts the character of a mother and step-mother towards a son. And there it is told that the mother kisses the boy, and that very event was censored out of the film, because the Film Censor Board or their representative in Bengal thought it was immoral. If this is the attitude, and if this type of censoring is allowed to be continued, it will adversely affect the film industry not only from the economic standpoint, but also in the definite role that it has to play in the development of our national character. We have heard representations from the film industry itself that though the Chairman of the Censor Board is an ex-Chief Justice of the High Court, actual censoring is done by the police chief who is the provincial chairman and one of his nominees, and even the exhibitors have no right of appeal, if they feel that the police chief is wrong. However good he may be in maintaining law and order, he cannot always understand the aesthetics of the films and the role they have to play. We might find one day that a particular film which depicts the national movement, especially the great events of the Jalianwala Bagh, may be allowed to be shown in Bengal, but may be banned in the Punjab because, unfortunately, there is a police chief in Punjab who is the head of

the Censor Board. He might be in some way connected with the atrocity. He might feel that it would have an adverse effect on the public. He might be one of the Indian lackeys of the British rulers, and he might have a feeling that this should be censored and banned immediately. That is why I emphasize that Government should give us and the people a guarantee that the Censor Board will be used in a manner which will be to the interests of the nation and in the interests of the development of the society, enabling the film industry to play their part in educating the community, especially the younger generation, who are tomorrow going to take up the reins of Government. Unless that assurance is given, we feel that more power should not be given to this Government, as we feel that unfortunately the Government are following the same tactics adopted by their predecessors. This is the short point I wanted to emphasize, and I hope the Government will take note of it.

Shri Namblar: This has the smell of preventive detention type.

Shri Punnoose: If the Government finds some defect in a film and that some portion has passed the notice of the Censor Board, then sufficient time has to be given to the people concerned to explain. But, now, according to the amendment, the Government will have the power to act all on a sudden. It affects the trade, in the first place. A film has been produced at a high cost, and an average man with a very small amount of investment conducts the theatre. Now, all of a sudden, if that show is stopped even for some time, it hits the trade. That is one aspect of it.

In the second place, I am really anxious that sufficient thought should be given to this before this Bill is passed. Incidentally, I might cite an instance that has come to my mind just now. Very recently, in our State—many of you must know that case—there was a drama being staged. Some district magistrates of the State examined that drama and permitted it to be played. It was played in several theatres and lakhs of people saw it. And then one district magistrate who himself had given permission on an earlier occasion, refused permission for it to be staged again. Then in many local areas the drama was banned. The whole question became one of public importance and the State Legislature discussed it. The title of the Drama is: *You made me a Communist*. Political elements became perturbed. They became nervous and they prevailed upon the local officers to make a hubbub about

it. I want to ask the Government what would happen if this amendment is accepted? Some local officers or some people who have got prejudices against ideologies or against a certain philosophy would want to intrude and make capital out of it.

And then, the provision at present has got this benefit that the people affected are given some time to explain. Even that is going to be denied if this amendment is accepted. I do not know why Government want it.

Then there is another aspect. Government say that certain portions are added to the film which were not censored previously. Those who have something to do with cinema will know that that necessarily happens because you take a film and exhibit it for the first time. Then you have to make certain small amendments; certain write-ups, certain portions have to be deleted; certain portions have to be given greater relief. That has to be done. This amendment, if accepted, will tamper with that right. If it is so, it is going to hit the cinema industry. Of course, with regard to portions which have been already deleted, that is considered unacceptable by the Censoring Board, there is no question. If new additions are made in the simple interest of trade and to cater to the taste of the audience, then that should not be interfered with.

Shri T. T. Krishnamachari: So far as the points raised by the hon. Member Mr. Basu are concerned, they are fairly general, and I think the hon. Minister in charge will certainly take into account all the remarks made by the hon. Member opposite in regard to any review of the measure that is now on the statute book and when the Government considers the desirability of having a comprehensive enactment on the subject.

So far as what he said generally in regard to actions of Government, I can give a few particulars. The Government have been rather active about it. In fact, films which have been uncertified or in respect of which "U" Certificate has been changed to "A", ever since the Act was passed, have been ten; films in respect of which action was taken under sub-section (4) of Section 5, that is, Government using its power *suo motu*, there have been eleven; films which have been re-examined after certification have been eleven again. And in every case, excisions were ordered or revisions accepted or certification given. And every act of Government has been, more or less,

[Shri T. T. Krishnamachari]

I think, rather such as cannot be taken exception to. And where there has been an unauthorised film being certified, there have been four such films which have been brought to the notice of Government, and in one action has been taken. The exhibitor was prosecuted, but owing to the lacuna in the Act, he has been acquitted. In the others, action is being taken, or warning is being issued to the producers to behave properly, or it is a matter before court. So, the point really has been that the number of cases where Government have interfered have not been many, and where they have interfered, they have done so having in view the fact that the exhibitors or film producers would be inconvenienced and they should be given every latitude subject only to Government's responsibility in regard to public morality. Therefore, I think the charges that Government would abuse their powers are not based on facts, but on hypotheses which might come into being, some time later, or may not at all come into being, hypotheses about which we cannot provide by means of a statute.

One particular film, the hon. Shri Basu mentioned, was rejected by the old Provincial Board of Bengal, but it was passed by the Bombay Board—on resubmission to the Central Board that has formed later—for exhibition in the whole of India. So, even where the Provincial Board has done something, which in the eyes of the hon. Member is not right, he would perceive that the matter has been rectified. But all of us do not have the same standards, and there are different standards. The hon. Member wants to safeguard the privileges and rights of the younger generation. So do we. It all depends on what he thinks is best for the younger generation, and what we think is best for them. There might be a fundamental difference in approach in regard to what we think is good for the younger generation, and what he thinks is good for them. On that matter, there can be no common ground, because he might like a particular type of propaganda as being good for them, while we might like that particular type of propaganda to be eschewed, so far as the younger generation is concerned. So it is really a matter of policy in which there can be room for difference, and there is room for difference—criticism on governmental action are likely to be poured on Government in this regard. Government can only justify their action on the basis of policy. Anyway, no particular instance has been brought to the notice of Government, where it is said Government have exercised

their authority in a manner which is prejudicial to the future well-being of the younger generation. I do not think there is anything more for me to say or anything more that the Government are called upon to say in this matter on this occasion.

Shri K. K. Basu: May I emphasise one point in this connection? The Provincial Board is usually dominated mostly by officials, and in view of the fact that such wide and drastic powers are sought to be taken by Government in this amending Bill, do the Government propose to associate non-official persons who can be the best judges in the matter of the standard of morality etc., irrespective of the outlook that they have?

Shri T. T. Krishnamachari: I do not think that it has any relation to this very minor amendment.

Mr. Deputy-Speaker: The hon. Member wants to make a suggestion to the hon. Minister and through him to the hon. Minister in charge....

Shri T. T. Krishnamachari: So far as the human element is concerned, no matter what the constitution of the Board is, whether it be official or non-official, they are likely to err, and it is only against an error of that nature that we are trying to safeguard, and nothing else.

Mr. Deputy-Speaker: No, he wants a larger number of non-officials to be associated. That matter may be communicated to the hon. Minister in charge.

The question is:

"That the bill to amend the Cinematograph Act, 1952, be taken into consideration."

The motion was adopted.

Clause 2.—(Amendment of Section 6 etc.)

Shri T. T. Krishnamachari: I beg to move:

In page 1, for clause 2, substitute:

"2. Amendment of section 6, Act XXXVI of 1952.—In section 6 of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act),—

(i) after clause (b) the following new clause shall be added, namely:—

'(c) the exhibition of any film be suspended for such period as

may be specified in the direction'; and

(ii) for the proviso, the following shall be substituted, namely:—

'Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.'

The amendment has been necessary, as I said at the outset, because the original clause 2 merely seeks to delete the proviso under which a fortnight's notice was incumbent, so far as the Government are concerned.

Now, what is sought to be done is this. There are two sub-sections, (a) and (b) in the original Act, already, and they still remain, because nothing is done to them. A third sub-section (c) as an alternative, is proposed to be added, namely:

"(c) the exhibition of any film be suspended for such period as may be specified in the direction."

That is the main part of the section. The proviso is varied so that the notification issued under sub-section (c) will not operate for more than two months. This much time Government must give to the people to give them an opportunity to make representations, before finally deciding the matter. This variation has been found necessary because the concerned interests have represented that the mere omission of the proviso would take away the restriction on Government to see that people must be heard within a period of time, and that the order issued under proposed sub-section (c) would operate only for a limited period, and would act in a manner prejudicial to the interests of the industry concerned. That is the main provocation for this amendment, and it also seeks to take away much of the objection that might ordinarily be taken to a Bill of this nature.

Mr. Deputy-Speaker: Amendment moved:

In page 1, for clause 2, substitute:

"2. Amendment of section 6, Act XXXVI of 1952.—In section 6 of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act),—

(i) after clause (b) the following new clause shall be added, namely:—

'(c) the exhibition of any film be suspended for such period as may be specified in the direction'; and

(ii) for the proviso the following shall be substituted, namely:—

'Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of notification.'

Shri Kasliwal: This amendment, to some extent, modifies the rigours of the Bill as it was. But I respectfully submit that this particular proviso put forward by the hon. Minister relates only to sub-section (c) which is proposed to be added now. It does not relate to sub-sections (a) and (b). So far as these sub-sections are concerned, there is no opportunity given to a person, whose film has been certified but is later on declared as uncertified, to make a representation to the Government. I would submit that if the hon. Minister agrees to relate the proviso to sub-sections (a) and (b) also, then that position would be more acceptable to me.

Shri T. K. Chaudhuri: I would only request the Government to take this aspect of the matter into consideration. If you read section 6 as amended by the new amendment proposed by the hon. Minister, you will see that the two months' limit is imposed on the power to suspend the exhibition of films, so far as certification of films is concerned. But in the case of uncertification of films, there is no such two months' limit.

Shri T. T. Krishnamachari: The point is this. Normally, unless Government have got very good reasons, they would not act under sub-sections (a) and (b), and where they feel that it is a matter of emergency, they would act under sub-section (c), which is intended for an emergency. Sub-sections (a) and (b) give power to the Government to act in the manner provided in the section, and the Government will certainly act in that manner, but the point here is that the Government would give an opportunity to the people to present their case. Normally action would be taken by Government under sub-section (c), in cases where Government has not been able to give an opportunity to people to make a representation.

Shri T. K. Chaudhuri: If that is the intention of Government, what is the objection in relating this proviso to sub-sections (a) and (b) also. That is a very small request, and Government can easily accede to that.

Mr. Deputy-Speaker: They want to know why this proviso should not be related to sub-sections (a) and (b) also.

Shri T. T. Krishnamachari: The real position is this. The original intention was that the proviso should be deleted, so that the hands of Government shall be free to uncertify any film or change the character of the certification of a film.

Mr. Deputy-Speaker: But without any notice whatever?

Shri T. T. Krishnamachari: That was the original intention. Subsequently it was found that we could adopt a variation of the attitude. Sub-sections (a) and (b) remain, but a new sub-section (c) is added along with a proviso, which is a variation of (a) and (b). Unless compelling circumstances make them take action under sub-section (a) or sub-section (b), they will normally take action under sub-section (c). The discretion to choose the method of action will be still reserved to Government and is not left in the hands of anybody else. And this is a concession to the industry which is being discussed, and that is as far as we can go now. So, sub-sections (a) and (b) remain, as they are, and we are not asking for any mitigation of them. Normally, unless something is compelling, action would be taken under sub-section (c), in which case, this two months' limit will obtain.

Mr. Deputy-Speaker: What is the harm in relating...

Shri T. T. Krishnamachari: The position must be admitted by the hon. Member that sub-section (c) is an improvement on the old one, and is not one that detracts from it.

Mr. Deputy-Speaker: The difficulty evidently apprehended seems to be that this proviso does not appear to qualify sub-section (a) or sub-section (b).

Shri T. T. Krishnamachari: It does not qualify sub-section (a) or sub-section (b). It is not the intention of Government to say in the statute book expressly that Government will give an opportunity to everybody. That is the position. So, it is merely a matter of devising a *modus vivendi* rather than a statutory variation of the position. The amendment merely says that Government may act under sub-section (a) or sub-section (b) or sub-section (c). That is the alternative that is provided, and Government do not want to accept the obligation that in every case, where they want suspension, or uncertification or stoppage for the reason that they want an excision, an opportunity will be given to persons to explain their position.

Mr. Deputy-Speaker: Does it not appear to be a little too drastic?

Here no notice is given to a person who has spent money on the film; suddenly, even without notice, it is cancelled.

Shri T. T. Krishnamachari: As I said, Sir, the original position of clause 2, which was that a fortnight's notice would be given, as contained in the proviso, will no longer operate, and it will be left to Government to exercise choice or discretion. What is now being done under the amendment is to have an alternative method for Government, to say that they will suspend under sub-section (c). If they suspend under sub-section (c), naturally the other thing must follow. A suspension cannot be indefinite; it must be limited to a period of time, and that is two months. That is why that proviso can only operate in regard to a suspension, not in regard to an order which relates to uncertification. If Government find that sub-section (a) or sub-section (b) is not the proper method, then sub-section (c) will be utilised.

Mr. Deputy-Speaker: But it is not so stated. It is an independent one.

Shri T. T. Krishnamachari: I do say it is an independent provision, but an alternative provision. The third action, rather than the first and second action, in case of sub-section (a) or sub-section (b), as the case may be, open for Government is that they may, instead of uncertifying the film, merely suspend the certification and then that gives an opportunity for people to present their case. The Government might revoke the suspension or uncertify under sub-section (a) or change the character of the certificate under sub-section (b). If Government do not agree to the demands made by the particular exhibitor, then action under sub-section (a) or sub-section (b) will follow. This is more or less a preliminary to action under sub-section (a) or sub-section (b).

Mr. Deputy-Speaker: The question is:

In page 1, for clause 2, substitute:

"2. Amendment of section 6, Act XXXVI of 1952.—In section 6 of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act),—

(i) after clause (b) the following new clause shall be added, namely:—

'(c) the exhibition of any film be suspended for such period as may be specified in the direction'; and

(ii) for the proviso the following shall be substituted, namely:—

'Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.'

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill

Shri T. T. Krishnamachari: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill, as amended, be passed."

11 A.M.

Shri S. C. Samanta (Tamluk): This morning I submitted two amendments. By one amendment I wanted to substitute 'six months' for 'three months'. From the Ministry I have come to know that those offenders are very much afraid of imprisonment and they could not be checked so long by fine only. So I am satisfied that these three months will do. Another provision which I wanted to be put has already been put in the Cinematograph Act of 1952.

When we were dealing with the Cinematograph Act in 1952, we were of opinion that this imprisonment section should be added. Then the Government said—let us have an experiment with the fine and if we find it impossible to check them, then we will bring the imprisonment provision. We are glad that this provision has been brought in and I hope Government will look after this aspect of it, and if necessary, bring forward more stringent measures afterwards.

Shri T. T. Krishnamachari: I shall certainly communicate the wishes of the hon. Member to my colleague for such attention as it requires.

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

SCHEDULED AREAS (ASSIMILATION OF LAWS) BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill to assimilate certain laws in force in the scheduled areas to the laws in force in the districts of Nowgong and Sibsagar in the State of Assam, as passed by the Council of States, be taken into consideration."

[**SHRI PATASKAR in the Chair**]

It is a non-controversial measure. As the House would have seen from the Statement of Objects and Reasons, certain areas of the Mikir Hills, which is an autonomous district in Assam specified in the Sixth Schedule to the Constitution, have been excluded from that district and have been incorporated in the adjoining plain districts of Nowgong and Sibsagar. But in spite of this exclusion, and assimilation with these plain districts the rules and regulations and notifications which were in force in Mikir Hills still continue to be in force in these areas which now form part of these two plain districts. This has led to great administrative inconvenience, and the Government of Assam proposed that all those rules and notifications should be repealed and the laws and regulations in force in the districts of Nowgong and Sibsagar should be made applicable to these included areas. The Government of Assam are taking steps in their own Legislature to have the laws which form part of the State List extended to these areas there and they have asked us to take the same step in regard to the Union List. It is in compliance with that request, which is obviously reasonable and proper, that this Bill has been introduced. The only object of the Bill is to get rid of the former notifications, regulations and all sorts of things and make the current laws in the two plain districts of Nowgong and Sibsagar applicable also in the amalgamated areas.

Mr. Chairman: The question is:

"That the Bill to assimilate certain laws in force in the scheduled areas to the laws in force in the districts of Nowgong and

[Mr. Chairman]

Sibsagar in the State of Assam, as passed by the Council of States, be taken into consideration."

The motion was adopted.

Shri K. K. Basu (Diamond Harbour): I want to ask a question about clause 6. Is it left to the Central Government to decide in case of any confusion about the interpretation of a law or particular group of laws which should be in force in that particular area? What is the provision for removal of such difficulties under clause 6? Will the hon. Minister kindly explain?

Dr. Katju: That is the usual thing that is done in these cases; if there is any difficulty, the Central Government intervenes and clarifies.

Shri K. K. Basu: What is the difficulty, with regard to the time or the interpretation?

Dr. Katju: There is no difficulty as regards the interpretation, whether this thing applies or does not apply. The interpretation is for the courts.

Clauses 1 to 6, the Schedule, the Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN LIGHTHOUSE (AMENDMENT) BILL.

Shri Raghavachari (Penukonda): Sir, I again wish to raise the point raised earlier that we were under the impression, because of the discussion that arose out of the recommendations of the Business Advisory Committee and the order of priority of Bills that they recommended, which was discussed on the floor of this House and which we were told would be adhered to, that this will not come up. We have not given any amendments nor have we got here all the papers. No doubt, the time of the House should not be wasted and we must be ready when it is on the Order Paper.

Mr. Chairman: So far as I am concerned, I think the same objection was raised previously and I do not think I have got any appellate powers. I think the same ruling stands. However, it appears that this was on the agenda and this is a measure over which there should be no grievance.

The Deputy Minister of Railways and Transport (Shri Alagesan): It is a very small non-controversial measure.

Shri Raghavachari: The whole point is this; not the technicality of it. The House must be given some attention and the Members must not be under a wrong impression as to when these Bills are to be taken up. That is the point.

Mr. Chairman: I am told that this is on the Order Paper since the 20th of this month.

The Minister of Law and Minority Affairs (Shri Biswas): The position was explained by the Deputy-Speaker in connection with the previous item.

Shri M. S. Gurupadaswamy (Mysore): I suggest, Sir, that we may adjourn.

Mr. Chairman: No, no.

Shri Alagesan: I beg to move:

"That the Bill further to amend the Indian Lighthouse Act, 1927, be taken into consideration."

Hon. Members will find that this is a very simple and non-controversial and also a very light measure. The Bill before the House is a very simple measure designed to augment the resources of the Lighthouse Department. This Department is responsible for the administration of the Indian Lighthouse Act, 1927, which is a Central Government enactment. The lighthouses, lightships, light buoys and other marks within the ports limits or outside on the approaches to such ports in the high seas are commonly known as aids to navigation. The Lighthouse Department in India provides or/and maintains these aids for the benefit of ships voyaging to or between the ports in India. The aids are positioned in danger areas which the ships must keep clear off, that is shoals, submerged obstructions, rocks, etc. The existence of properly equipped and efficiently functioning lighthouses is thus a potential measure for the safety of life and property at sea.

Under the present set-up in India, lighthouses which are of benefit to general shipping are classified as 'General' and their administration is looked after directly by the Centre through the Lighthouse Department. The responsibility for the administration of all navigational aids in the Parts B, C and D States has also devolved on the Centre. Lighthouses which are of benefit to ships proceed-

ng to a particular port are treated as 'local' and are maintained by the State Governments in case of minor ports and the Port Trusts in case of major ports.

The lighting system of India, it is felt, should now conform to the growing requirements of the expanding shipping and, in particular, the lights in the Gulf of Kutch which have come to the charge of the Centre from the former maritime Princely States need particular attention.

Shri S. N. Das (Darbhanga Central): On a point of order, Sir. The Order Paper that has been circulated to us shows that the programme for the 27th, 28th and 29th is the further consideration of the Bill further to amend the Indian income-tax Act, 1922, as reported by the Select Committee and Shri C. D. Deshmukh to move that the Bill be passed. I want to submit, Sir, that in view of this agenda, we did not think it necessary to go through the other Bills so that we may speak on them or move amendments. I think, in view of this, the House should now adjourn.

Mr. Chairman: What is the point of order? This Bill was on the Order Paper. I do not think there is any point.

Shri M. S. Gurupadaswamy: On a point of order, Sir. There is an asterisk there. It has been said that these Bills are to be taken up on Tuesday the 28th and the 29th April, 1953, if time permits. Not before.

Mr. Chairman: The Order Paper is quite clear. This Bill is the last one on that Order Paper and I think it is perfectly in order. I think it is a small measure and we will be able to finish it within a short time. I do not think hon. Members seem to be in a hurry to adjourn. We are going to adjourn after a short time.

Shri Punnoose (Alleppey): We are not against it; but the impression is that the House is doing business without knowing what it has to do. I cannot understand it.

Mr. Chairman: That is not it.

Shri Alagesan: For these and other aids a programme of development and modernisation of the various lights has been drawn up which is estimated to cost about Rs. two crores for the period ending 1955-56. The object is to make navigation far safer in the Indian waters than it has been hitherto and also to cater to the needs of Kandla which is in the process of being developed as a major port. This is proposed to be achieved

having due regard to the latest discoveries in the field of lighthouse engineering and international standards of lighting system.

The Lighthouse Department is maintained on a self-supporting basis and the income is chiefly derived from the light dues which are levied on ships. The present rates of light dues are one and a half annas per ton on steam-ships and half an anna per ton on sailing vessels. After meeting the expenditure of the Department, the surplus or deficit is adjusted against a Fund known as the General Reserve Fund. There is another Fund called the Depreciation Reserve Fund which is built by transferring yearly amounts of depreciation in respect of the various assets of the Lighthouse Department. The balance in the two Funds—about Rs. 85 lakhs—is not sufficient to cover the estimated expenditure and it is, therefore, necessary to raise the light dues. The present ceiling limit prescribed in the Indian Lighthouse Act is two annas per ton and it is proposed to raise it to four annas. This limit will, however, be reached in progressive stages. The Central Lighthouse Advisory Committee which is a statutory body representing important shipping and commercial interests have agreed to the ceiling limit being raised to four annas. It is, therefore, necessary to make a small amendment to section 10(1) of the Indian Lighthouse Act, 1927.

Opportunity is also being taken to make a formal amendment in the extent clause of the Act. The Act has been extended to the whole of India, including Part B States by a notification issued in 1950 and section 1 of the Act, as it stands now, is sought to be amended to conform to this position.

With these remarks, I commend the Bill to the House.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Indian Lighthouse Act, 1927, be taken into consideration."

Shri Kasliwal (Kota-Jhalawar): This Bill makes a very minor amendment in the old 1927 Act. I wish the hon. Minister had brought a more comprehensive Bill, because he himself said in his speech that, with the growing requirements of shipping, some other measure may be necessary to be in conformity with the growing requirements. Instead of making this small amendment, he should have come forward with a really more comprehensive Bill.

[Shri Kasliwal]

Apart from this question, certain other questions arise in my mind. I wonder if the hon. Minister has ever gone round and seen any particular lighthouse. I have gone round the whole of the coast of India and seen the condition of our lighthouses and I can say that several of them are not in a good state. I must also say that the persons who man these lighthouses are also not in a happy state. I wish the hon. Minister had said something about this. I wish the hon. Minister had gone through a particular book which has been written on the British lighthouses. That would have given him a lot of information. I want him to go through that book and bring forward a more comprehensive Bill on the lighthouses.

Shri K. K. Basu (Diamond Harbour): It is really in the fitness of things that we should be closing our debate today with a discussion on lighthouses after so long groping in the dark. The previous speaker emphasised the necessity of a comprehensive Bill to deal with the problems, which today are growing in view of the target that we have fixed for the development of our coastal shipping, if not the overseas. The hon. Minister said that the Bill is a short one, the first part being consequential and the second part having the support of the Central Lighthouse Advisory Board, which consists of the trading and shippers' interests.

My hon. friend said that more money is required to make this organisation self-sufficient. He wants more revenue so that the present drain on the resources may not be continued. I have not read the particular book to which my hon. friend the previous speaker referred. But we know very well the conditions in which the persons who take the responsibility of working these lighthouses, and help the navigation of our ships live. We do not know what part of the amount that is spent on the organisation is devoted to the welfare of these people. The House may possibly be aware how some time back on the Bombay coast some of these people were marooned. Of course, something was done to rescue them.

We do not know how these extra revenues are going to be utilised—whether to improve the organisation, or to offset the extra expenditure that might be incurred for the building up of the Kandla Port. I wish the hon. Minister in his introductory speech had apprised the House of the am-

ount that would be devoted for the welfare of the personnel who man these lighthouses.

The main object of the Bill is to increase the light-dues from two annas to four annas. I do not know whether in this enhancement they are going to differentiate between the coastal shippers and those who ply overseas. The hon. Minister said that he has the support of the Central Lighthouse Organisation wherein trading interests are represented. But I am afraid the coastal shipping, which is done mainly by our national shipping interests might be adversely affected because of the extra amount they would have to pay. I, therefore, think that there should be some sort of a differentiation between coastal shippers and overseas shippers, wherein our national interests have only a small share. I hope Government will give due consideration to these suggestions.

सेठ अबल सिंह (आगरा जिला—पश्चिम) : यह जो सरकार ने Indian Lighthouse (Amendment) Bill पेश किया है, मैं उस का समर्थन करता हूँ इस बिल का पास होना बहुत जरूरी है। इस समय हमारे भारतवर्ष का समुद्री तिजारती बेड़ा बढ़ रहा है और जो नया पोर्ट कांडला का बना है, इस सब को देखते हुए अगर हमारे लाइट हाउसेज का प्रबन्ध ठीक नहीं होता है, तो इस से हमें काफी मुकसान पहुंच सकता है, इस लिये यह जो दो आने फ्री टन अभी तक लिया जाता रहा है उसके बजाय यह जो चार आने लेने का प्रस्ताव आया है, उस का मैं स्वागत करता हूँ, इससे लाइट हाउसेज के दम्पवमेंट और डेवलपमेंट में काफी मदद मिलेगी और जो टैक्स पेयर्स हैं उनको फायदा होगा दो आने से चार आने का बढ़ोतरी से लाइट हाउसेज की एफिशियेंसी भी बढ़ेगी, और जो घन बच जायगा वह रिजर्व फंड में रहेगा। इस लिए मैं इस बिल का स्वागत करता हूँ और माननीय मन्त्री जी को इस को पेश करने के लिए बधाई देता हूँ।

Shri S. C. Samanta (Tamluk): I wholeheartedly support the Bill. At the same time I should like to have a clear idea about two points. The light-dues are sought to be doubled from two annas to four annas. A portion of this amount is proposed to be spent on the Kandla Port. I would like to know from the hon. Minister whether the Advisory Board, to which he referred, actually calculated whether the organisation in charge of the lighthouses is incurring at present any losses, to meet which the dues are being enhanced, or this enhancement is meant to improve the lighthouses, buoys, etc.

In this connection I would like to refer to the Calcutta Port, navigation in which is somewhat hazardous at present. This can be completely obviated only by the completion of the Ganga Barrage Scheme. Meanwhile Government should see that the lighthouses and buoys from Calcutta to the Bay of Bengal are looked after properly.

An important question which I would like to ask the hon. Minister is whether the Advisory Board is confident that the doubling of the rate sought to be done now will do, or they will have to come forward with another enhancement. If that is so, I would request the Government to calculate the whole thing and come forward with a comprehensive Bill before the House. I have nothing more to add and I give my support to the Bill.

Shri Punnoose: I must confess that I am not very much enlightened by this Lighthouses Bill. On occasions like this, one has to be led by his own lights. The hon. Minister was saying that the parties concerned have agreed to the enhancement of the rates. Very recently, I met some people engaged in coastal shipping. They complained that a lot of cargo which in the ordinary course should have been transhipped by coastal shipping is now being carried by train, because of the very high cost of shipping. They have been persistently asking for subsidies from Government and vociferously protesting that help has not been forthcoming. In that context, I do not understand how those very interests have agreed to this increase of the rate from two annas to four annas. I wish to bring to the notice of the Government that the whole question of the coastal shipping and its development has to be looked into and Indian interests have to be encouraged.

Another aspect to which I wish to draw attention is with regard to Part

B States. I do not know—and the hon. Minister did not say anything in this regard—whether Part B States have been consulted on this issue, because the income from this source is of vital importance for Part B States. It is a growing source of income for them. In Travancore-Cochin, we have a major port at Cochin. There are minor ports also, and they still remain in the hands of the State Government. But with regard to Cochin, which is one of the five major ports in India, I have come across complaints that it is not receiving the attention that it deserves. The workers there, though they are now under the Central Government, are not getting the same amenities, allowances etc. that are given to other workers elsewhere. I would like to know whether the proposed enhancement would give an occasion for Government to go into the condition of the workers who are engaged in this port, and whether better facilities will be afforded to them.

Shri V. P. Nayar (Chirayinkil): We are very apprehensive of measures such as those which like this Bill seek to include the Part B States in the Union pattern. Specifically about this issue, it cannot be known just at present how far we in Travancore-Cochin will be affected. Even repeated requests have not opened the eyes of Government in regard to the anomalies that prevail as a consequence of the integration of the States personnel in the Central service. I can give you any number of examples. Personnel have been taken over from Part B States, and there is always a sort of step-motherly treatment meted out to them. We know that consequent on the integration of the Travancore-Cochin State forces in the Indian Army, hundreds of thousands of people were retrenched. Similarly, the personnel of the Income-Tax Department who have been taken over are facing so many difficulties. They have made repeated representations, but in spite of that, Government has done absolutely nothing for them. It sits tight over every prior decision arrived at in the usual way. Some officers report—I do not know who they are—and the hon. Minister concerned says that he sees no ground for considering the case of these people. In such matters, when the States' people are taken over, whether they be one or a hundred, it should be incumbent on the Central Government to consult the State Government. I do not know whether the State Government has been consulted in this matter. At any rate, the hon. Minister did not contradict my hon. friend, Mr. Punnoose. If Government have brought forward this Bill without con-

[Shri V. P. Nayar]

sulting the Part B States concerned, I submit that this is a most high-handed act, and its repetition ought to be stopped here and now.

Shri Alagesan: I am grateful to hon. Members who have thrown so much light on this Lighthouse Bill.

Shri V. P. Nayar: If you take out the light, only the house remains.

Shri Alagesan: I had hoped to get through this Bill in a much shorter time; even so, I am very grateful for the very enlightening speeches made by my hon. friends.

One hon. Member said that this Bill, which seeks to amend the parent Lighthouse Act, tries to amend an obsolete Act. Now, the original Act is not obsolete. It is very current. It may be an old Act, but it is not an obsolete Act. Latest things become obsolete, but old things still continue, and this is one such Act. We have therefore no intention of bringing forward a very comprehensive measure.

Shri K. K. Basu: It is so old that it can be kept in the National Archives.

Shri Alagesan: This Bill has been brought forward as an emergency measure, because we want to put through the ambitious programme we have in view for the lighthouses. In the Five Year Plan, the Planning Commission has very kindly agreed that a loan of Rs. 80 lakhs should be made available to this Department, and with that amount and the extra money that we propose to raise by increasing the light-dues, we propose to carry out the programme in hand.

My hon. friend over there raised the question of coastal ships. Of course, there is no distinction between coastal ships and overseas ships, but some sort of advantage is being enjoyed by the coastal ships, because irrespective of the number of trips that they make to a particular port in India, or for the matter of that to any port in India, they have to pay the dues only once in a month. They may go to a port twice or thrice in a month, but they pay the dues only once, and that is the advantage which the coastal ships enjoy.

Mr. Samanta, although he raised his favourite point about the Ganga-Barrange Scheme, made some other point also. He drew our attention to the fact that the lights provided in the Calcutta Port need attention.

These lights are classified as local ones, and are in the direct charge of the Calcutta Port Commissioners. They are looked after by them. But the Engineer-in-Chief of the Lighthouse Department is also the Chief Inspector of Lighthouses in India. He periodically inspects them and brings to the notice of the local authorities any defects that may be found, and the authorities concerned are attending to them.

In regard to consultation of the Part B States, my hon. friends made a hypothetical statement. Because I did not contradict them, they assumed certain things. I only waited to reply at the end. If they want, I can go on interrupting them, but that is not good. The maritime States like Saurashtra, Travancore-Cochin etc. were consulted at the time of the financial integration and their lighthouses were taken. They were taken over with a view to effect further improvements and not to allow them to deteriorate. I can give the assurance to my hon. friends on behalf of Government that there will be no deterioration and on the other hand a great deal of improvement would be effected as a result of the Centre's taking over of these lighthouses.

I may also add one more thing. These dues are sought to be raised from two annas to four annas. Even now, though the ceiling is two annas, only one and a half annas are collected. Similarly, after this measure is approved by the House, we would be consulting the Central Lighthouses Advisory Committee as to the actual amount of increase—whether it should be three annas or four annas. The opinion of that Committee will be taken before fixing the enhanced rate.

I hope I have covered all the points, and I commend my motion.

Mr. Chairman: The question is:

"That the Bill further to amend the Indian Lighthouse Act, 1927, be taken into consideration."

The motion was adopted.

Clauses 1 to 4, the Title and the Enacting Formula were added to the Bill.

Shri Alagesan: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

Mr. Chairman: Is there any other business?

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):

There is no other business.

Mr. Chairman: As there is no other business, the House will now stand adjourned.

The House then adjourned till a Quarter Past Eight of the Clock on Monday, the 27th April, 1953.
